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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1101.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF NORTHERN OHIO SUGAR AND MAPLE SUGAR.

On June 17, 1910, the United States Attorney for the Eastern District of Michigan, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for the said district libels praying condemnation and forfeiture of 12 boxes of so-called "Northern Ohio Sugar" and 5 boxes of so-called "Maple Sugar," both in the possession of Purser, Powers & Co., Bay City, Mich. The said products were labeled, respectively: "Northern Ohio Sugar manufactured by The Standard Syrup Company, Cleveland, Ohio." and "Maple Sugar Packed by The Standard Syrup Company, Cleveland, Ohio."

Analyses of samples from each of said consignments by the Bureau of Chemistry of the United States Department of Agriculture showed the products to consist of cane sugar prepared in imitation of maple sugar. The libels alleged that the said products, after transportation from Ohio into Michigan, remained in the original unbroken packages, and were adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and were therefore liable to seizure for confiscation. Adulteration was alleged against both products for the reason that a substance, to wit, cane sugar, had been substituted wholly or in part for said products. Misbranding was alleged against the product branded "Maple Sugar," for the reason that said label was false and misleading, because said sugar was not maple sugar, but cane sugar in imitation thereof; and against the product labeled "Northern Ohio Sugar," for the reason that said product was not Northern Ohio sugar, but an imitation thereof, and the statement to that effect was therefore false and mis-

leading and calculated to mislead and deceive the purchaser of said product.

On May 2, 1911, judgment by default was entered, and on June 7, 1911, the court found the products to be adulterated and misbranded as alleged in the complaint and that the United States was entitled to a decree of condemnation as prayed for, and accordingly on said date entered an order condemning and forfeiting the said products to the United States and ordering their sale by the marshal.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 29, 1911.*

1101



Issued October 18, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1102.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF CRYSTAL EGGS.

At the November term of court, 1910, the United States Attorney for the Eastern District of Missouri, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States against the St. Louis Crystals Egg Co., a corporation, of St. Louis, Mo., alleging shipment by it, in violation of the Food and Drugs Act, on or about July 10, 1909, from the State of Missouri into the State of Minnesota of a quantity of a certain food product called "Crystal Eggs" which was adulterated.

Analysis of the product by the Bureau of Chemistry of this Department showed it to contain 1.75 per cent of boric acid. The information, therefore, alleged adulteration in that there had been added to and mixed with the product a poisonous and deleterious ingredient which rendered the article injurious to health.

On June 5, 1911, the defendant pleaded guilty and was fined \$5 and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 29, 1911.*

8784°—No. 1102—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY. .

NOTICE OF JUDGMENT NO. 1103.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF EGG COLOR.

At the January term of court, 1911, the United States Attorney for the Southern District of New York, acting upon the report by the Secretary of Agriculture, filed information in the Circuit Court of the United States for the said district, against Wood & Selick, a corporation, of New York, N. Y., charging shipments by it, in violation of the Food and Drugs Act, on or about March 19, 1910, from the State of New York into the State of Louisiana, of certain articles of food called "Light Shade Egg Color" and "Golden Egg Color", which were adulterated. The products were labeled: "Light Shade Egg Color—Wood & Selick, manufacturing chemists, 36 and 38 Hudson St. New York," and, on the back of the container the following statement appeared: "This color is made of the specified colors in F. I. D. 76 in uncertified form. We guarantee them as such. Wood & Selick—Hudson, Duane & Thomas Sts., New York." The labels on the Golden Egg Color were the same, except as to the name of the product.

Analyses of samples of these products by the Bureau of Chemistry of this Department showed them to contain, respectively, one part in 30,000, and one part in 37,000 arsenic. Adulteration was therefore charged in two counts in the information against these products, because they contained an added poisonous or deleterious ingredient, to wit, arsenic, which might render them injurious to health.

At the same term of court the defendant corporation pleaded guilty to the charges against the products and was fined \$25 on each count, which fines were paid on May 1, 1911.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 30, 1911.*

F. & D. No. 2519.
S. No. 896.

Issued October 18, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1104.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF COMPOUND VANILLA FLAVOR.

On March 15, 1911, the United States Attorney for the Eastern District of Missouri, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for the said district a libel praying condemnation and forfeiture of one keg of compound vanilla flavor in the possession of N. Terzis, St. Louis, Mo. The product was labeled: "Compound Vanilla Flavor XX Star Extract Works—Importers and Manufacturers of Essential Oils, Flavoring Extracts and Supplies, 205 Fulton St., New York. Guaranteed under the Food and Drugs Act, June 30, 1906. U. S. Serial No. 5187. M. D.—N. Terzis, 4964 Delmar St., St. Louis, Mo. 71633—Big Four—East St. Louis 3-6."

Analysis of samples from said consignment, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following results: Alcohol, 22 per cent; methyl alcohol, absent; vanillin, 1.18 per cent; coumarin, 0.14 per cent; vanilla resins, none perceptible; Winton lead number, 0.09 per cent; coloring matter, small amount of caramel indicated. The libel alleged that the said vanilla flavor, after transportation from New York into Missouri, remained in the original unbroken package, and was adulterated and misbranded in violation of the Food and Drugs Act, June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged for the reason that the said product was not vanilla flavor or vanilla extract, but that a substance consisting of vanillin, coumarin, and dilute alcohol had been mixed and packed with said product so as to reduce, lower, and injuriously affect its quality and strength and substituted wholly or in part for said article, and for the further reason that the said product had been

artificially colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the label represented said product as a compound vanilla flavor, when in fact it was not a compound vanilla flavor, but an imitation thereof, and was therefore false and misleading, and calculated to mislead and deceive the purchaser of said product.

On June 12, 1911, the said cause coming on to be heard and no person appearing as claimant, the court found that the said product was adulterated and misbranded as alleged in the libel, and that the United States was entitled to a decree of condemnation as in the libel prayed for. Accordingly, a decree was entered on that day condemning and forfeiting the product to the United States, and ordering its destruction by the marshal.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 30, 1911.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1105.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF IMPROVED SODIC ALUMINIC SULPHATE.

On April 1, 1911, the United States Attorney for the Eastern District of Missouri, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 131 barrels of sodic aluminic sulphate found on the premises of the Hygienic Chemical Co., St. Louis, Mo.

Analysis of samples from said product by the Bureau of Chemistry of the United States Department of Agriculture showed the product to contain ten parts of metallic arsenic per million. The libel alleged that the said product, after transportation from Illinois into Missouri, remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it contained an added poisonous ingredient, to wit, arsenic, which rendered said article injurious to health.

On June 8, 1911, the cause coming on to be heard, the Superior Chemical Co., by Sebastian Lager, its president, filed its claim to said property, asking that an order be made by the court for the release of the property to the claimant upon the payment of the costs of the proceedings and the execution and delivery of a bond, as provided by the aforesaid act. On said date the court found the said product adulterated as alleged in the libel and that the United States was entitled to a decree of condemnation as prayed for, and accordingly entered a decree on that day condemning and forfeiting the goods to the United States and ordering the marshal to label said product "Sodic Aluminic Sulphate and Arsenic. Not to be used for food," and to sell same at public auction upon such terms and con-

ditions as will not violate the aforesaid act, with the proviso, however, that the said product be delivered to the above-mentioned claimant upon its paying the costs of the proceedings and executing a good and sufficient bond in the sum of \$500, conditioned that the product be not sold or otherwise disposed of in violation of law.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 30, 1911.*

1105



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1106.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND ALLEGED MISBRANDING OF TOMATO PURÉE.

In June, 1910, the United States Attorney for the Eastern District of Louisiana, acting upon the report of the Secretary of Agriculture, filed a libel for seizure and condemnation in the District Court of the United States against 100 cases of Tomato Purée in the possession of G. M. Ahrons & Co. (Ltd.), a corporation, New Orleans, La., consigned to that company by the New Blue Grass Canning Co., Owensboro, Ky., and charged adulteration and misbranding of the product in violation of the Food and Drugs Act. The product was labeled: "Superior Tomato Purée (picture of red ripe tomato). This package contains pure ripe tomato juice, condensed three to one. Especially suited for dressing fish, oysters, meats, etc. Adapted to the making of home made catsup. All goods bearing our name are guaranteed to conform to all pure food laws. Blue Grass Brand. Packed by New Blue Grass Canning Co., Owensboro, Ky., U. S. A. The contents of this package contain three times in strength pure condensed tomato juice and will make three times as much tomato soup as a can three times as large will produce in pure canned tomatoes."

An examination of this product by the Bureau of Chemistry of this Department showed it to contain yeasts and spores, 209 per one-sixtieth cmm., bacteria, estimated at 228,000,000 per cc., with molds, mostly imperfectly developed, in about one-half of the microscopic fields examined. Adulteration was therefore charged for the reason that the product consisted in whole or part of filthy and decomposed vegetable substance. Misbranding was charged because the label bore the statements "Superior Tomato Purée" and "This product contains Pure Ripe Tomato Juice condensed three to one", which

said statements were false and misleading in that the product was not a superior quality and was not condensed in the proportion of three to one.

On January 16, 1911, the court, upon the nonappearance of any claimant on the day specified in the notice duly given, ordered judgment by default and decreed that 23 cases of the product, the same being all that was found by the marshal at the time of seizure, be condemned and forfeited to the United States and forthwith destroyed as being adulterated as charged in the libel.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *August 30, 1911.*

1106



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1107.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF TOMATO PULP.

In June, 1910, the United States Attorney for the Eastern District of Louisiana, acting upon a report by the Secretary of Agriculture, filed a libel for seizure and condemnation in the District Court of the United States against 192 cases of tomato pulp in the possession of W. A. Gordon & Co., New Orleans, La., consigned to that company by the Lord-Mott Co., a corporation, Baltimore, Md., and charging adulteration of the product in violation of the Food and Drugs Act. The product was labeled: "Old Reliable Brand Tomato Pulp. (Picture of red ripe tomato.) Old Reliable Brand. Packed by Lord-Mott Co., Inc., Baltimore, Md. U. S. A. Guaranteed by Lord-Mott Co. to comply with pure food law."

Examination of this product made by the Bureau of Chemistry of this Department showed it to contain yeasts and spores 375 per one-sixtieth cmm., bacteria estimated at 200,000,000 per cc., molds in nearly every microscopic field examined, and a considerable amount of sand. Adulteration was charged because the product consisted in whole or in part of a filthy, decomposed vegetable substance, and contained, besides, a considerable amount of sand which had been substituted in part for the tomato pulp.

On January 16, 1911, the cause came on for hearing and no claimant to the product having appeared and no answer having been filed, the court ordered judgment by default and decreed that 72 cases of the product in question, the same being all that was found by the marshal at the time of seizure, be condemned and forfeited to the United States as being adulterated as charged in the libel and forthwith destroyed.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 31, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1108.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF EGG PRODUCT.

On May 9, 1910, the United States Attorney for the District of Massachusetts, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of two barrels of egg product found in the storage warehouse, Constitution Wharf, 409 Commercial Street, Boston, Mass.

Examination of samples of said product, by the Bureau of Chemistry of the United States Department of Agriculture, showed that it was composed of a filthy and contaminated substance, and that it contained an enormous number of bacterial organisms, many of which are of a gas-producing type. The libel alleges that the said product after shipment by the St. Louis Crystals Egg Co. from Missouri into Massachusetts remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance and was therefore liable to seizure for confiscation.

On January 31, 1911, proclamation having been made and default entered, the court adjudged the said product adulterated as alleged in the libel and decreed its forfeiture to the United States and ordered the marshal to destroy it.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *September 1, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1109.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COTTONSEED MEAL.

On February 3, 1911, the United States Attorney for the Western District of Tennessee, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against the J. Lindsay Wells Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on February 27, 1909, from the State of Tennessee into the State of Pennsylvania, of a quantity of cottonseed meal, which was misbranded. The said product was labeled as follows: "J. Lindsay Wells Co., Memphis, Tenn., Star Brand Choice, finely-ground, Cottonseed meal. Tags: 100 lbs. each. Sold basis analysis Ammonia 8 per cent, nitrogen $6\frac{1}{2}$ per cent, protein 41 per cent, carbohydrates 25 per cent, oil and fat 9 per cent, crude fiber 7 per cent. This meal is made from decorticated cottonseed. Always twinkling for business."

Analysis of samples of said product by the Bureau of Chemistry of this Department showed the following results: Moisture 7.65 per cent, ether extract 6.58 per cent, protein 37.19 per cent, crude fiber 11.77 per cent. Micro, approximately 20 per cent hulls. Misbranding was alleged for the reason that the statements on the label as to the percentages of protein, crude fiber, and oil were false, as shown by the above analysis.

On May 24, 1911, the defendant corporation pleaded guilty and was fined \$25 and costs, which were paid.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *September 1, 1911.*

9453°—No. 1109—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1110.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VINEGAR.

On May 31, 1911, the United States Attorney for the Southern District of Ohio, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Queen City Cider Vinegar Manufacturing Co., of Cincinnati, Ohio. The information alleged that the Queen City Cider Vinegar Manufacturing Co. sold and delivered for shipment to the J. Weller Co. on August 23, 1910, 60 barrels of a product purporting to be pure cider vinegar, and gave to the said J. Weller Co. a guaranty in effect that the product conformed to all pure food laws, knowing that the product would be sold or was likely to be sold in interstate commerce and traffic. It was alleged further that the J. Weller Co., on August 24, 1910, shipped the said 60 barrels of vinegar from Cincinnati, Ohio, to Terre Haute, Ind., and that the Queen City Cider Vinegar Manufacturing Co. therefore was responsible for the shipment and delivery for shipment of the product in interstate commerce.

The vinegar was labeled: "The J. Weller Co., Pure Apple Cider Vinegar, Guaranteed, Cincinnati, Ohio. Fermented July 10. Made by the Queen City Cider Vinegar Co., Cin. O." Analysis of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

Solids.....	2.05
Non sugar solids.....	1.11
Reducing sugar invert.....	.94
Polarization—direct at 20.5° C.....	2.0
Ash, total.....	2340
Ash, soluble in water.....	184
Ash, insoluble in water.....	.05
Alk. sol. ash cc N/10 acid 100 cc.....cc	19.6
Alk. insol. ash.....cc	8.4
Sol. phos. acid, mgs per 100 cc.....	1.23
Insol. phos. acid, mgs per 100 cc.....	9.2
Acid, as acetic.....	3.79
Fixed acid, as malic.....	.045
Lead precipitate.....	Medium.
Color (in 0.5 in. cell).....degrees, brewer's scale	14.0
Color removed by Fuller's earth.....	53.6

Adulteration was alleged in that a substance, to wit, water, had been mixed with the vinegar so as to reduce and lower or injuriously affect its quality and strength and further, in that water had been substituted in part for pure apple cider vinegar. Misbranding was alleged for the reason that the product was represented as a pure apple cider vinegar, which was false and misleading and calculated to deceive and mislead the purchaser because said product was not a pure apple cider vinegar but a dilute mixture of cider vinegar and water.

On June 29, 1911, defendant company pleaded guilty and was fined \$50 and costs, amounting in the aggregate to \$65.80.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *August 31, 1911.*

1110



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1111.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF WHISKEY.

On February 3, 1911, the United States Attorney for the Western District of Tennessee, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against J. A. McCormack, doing business under the firm name of J. A. McCormack & Co., Memphis, Tenn., alleging shipment by him, in violation of the Food and Drugs Act, on April 20, 1910, from the State of Tennessee into the State of Arkansas, of a quantity of whiskey which was misbranded. The whiskey was labeled: (On shipping case) "4 qts. whiskey". (On bottle) "M. W. Heron's Famous Southern Comfort. M. W. Heron, Memphis, Tenn." (On carton) "M. W. Heron's Collars and Cuffs, Memphis, Tenn."

An analysis of a sample of the product was made by the Bureau of Chemistry of this Department with the following results, showing the product to be a compound cordial, viz: Proof, 58.9; alcohol by volume, 29.43 per cent; acids, 199.6; esters, 84.6; aldehydes, 9.0; furfural, 2.5; fusel oil, 102.0; color insoluble in amyl alcohol, 16.0 per cent; color insoluble in water, 11.8 per cent; total color, 31.4; solids by evaporation, 25.94; ash, 0.014; total sugars as reducing, 23.3 per cent; sucrose, 1.42 per cent. Misbranding was alleged for the reason that the statements on the label were false and misleading in that the product was represented to be whiskey when in fact it was a compound cordial.

On May 24, 1911, the defendant pleaded guilty and was fined \$25 and costs, which were paid.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 13, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1112.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED MISBRANDING OF COFFEE.

On May 4, 1910, the United States Attorney for the Northern District of Illinois, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against W. F. McLaughlin & Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about April 2, 1909, from the State of Illinois into the State of Kansas, of a quantity of coffee which was misbranded. The label on the packages containing the coffee was as follows: "One pound net weight. McLaughlin's Arabian Mocha and Java Coffee. Chicago. Guaranteed under the Food and Drugs Act June 30, 1906. Serial No. 8257."

Examination of a sample of said coffee, made by the Bureau of Chemistry of the United States Department of Agriculture, showed that there was not sufficient Mocha coffee present in the product to give any Mocha character to the blend, and that the coffee used and termed as Mocha was, in fact, a longberry or Abyssinian coffee. Misbranding was alleged for the reason that the statement appearing on the label represented the said coffee as Mocha and Java coffee, which was false and misleading, because said coffee was not Mocha and Java coffee, but contained Java longberry and Abyssinian coffee.

On May 10, 1910, the defendant corporation entered a plea of not guilty. On September 27, 1910, a jury was waived and the case was submitted to the court. On February 16, 1911, the court entered a finding of not guilty.

Decisions of United States District Courts adverse to the Government will not be accepted as final until acquiescence shall have been published.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *September 13, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1113.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF "SWEET'S HONEY VERMIFUGE."

On December 20, 1910, the United States Attorney for the Western District of Tennessee, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Van Vleet-Mansfield Drug Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about April 29, 1910, from the State of Tennessee into the State of Mississippi, of a quantity of a drug product called "Sweet's Honey Vermifuge," which was misbranded. The product was labeled: (On bottle) "Sweet's Honey Vermifuge. Alcohol 10% A dead shot for worms. Directions: Children from 1 to 3 years, 1 teaspoonful; 3 years and over, 2 teaspoonful—every 4 to 6 hours until the worms are removed. Guar. etc. Van Vleet-Mansfield Drug Co., Sole Proprietors, Memphis, Tenn." (On circular) "Sweet's Honey Vermifuge. A Dead Shot for Worms. Pleasant to the taste. Effective in its action, and Harmless to the Child. Is a vegetable preparation which is palatable to the taste, harmless in its action, while at the same time it strikes at the seat of the disease by destroying and expelling the worms from the system." (On carton) "Sweet's Honey Vermifuge. Contains 10% alcohol. * * * An effective, safe, and prompt remedy for all forms of worms in children. Pleasant to the taste and perfectly harmless. Guar. etc., Serial No. 2165."

Analysis of samples of said product made by the Bureau of Chemistry of this Department showed it to consist of a hydro-alcoholic solution of sugar, senna, santonin, sodium salts, traces of drug extractive, methyl salicylate and coloring matter, and alcohol 3.5 per cent by volume. Misbranding was alleged for the reason that the

following statements appearing on the label were false and misleading, and calculated to mislead and deceive the purchaser, viz, that the product contained 10 per cent alcohol when in fact it contained only 3.5 per cent alcohol; the name "Sweet's Honey Vermifuge" conveys the impression that said product contains an appreciable amount of honey when in fact it does not contain honey, as shown by above analysis; the statement that the preparation is perfectly harmless as the preparation contains santonin, which is a harmful drug, and may produce ill effects.

On May 24, 1911, the defendant pleaded guilty, and was fined \$10 and costs, which was paid.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 14, 1911.*

1113



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1114.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF EVAPORATED MILK.

On May 31, 1911, the United States Attorney for the Western District of Missouri, acting upon the report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 200 cases of evaporated milk in the possession of M. & O. Milk Co., a corporation. The product was labeled as follows: "Everybody's Full Cream Concentrated Milk. Good All Through. For Grandma, Mamma, Sister. For Grandad, Papa, Brother. Evaporated. Made at Waterloo, Illinois, By M. & O. Milk Company, St. Louis." "Good all through. Everybody's Evaporated Milk. (Picture of Cow.)" "This Milk may be used either unadulterated or slightly diluted with water for coffee, cocoa, on fruits, cereals, etc. Full directions for infant feeding will be cheerfully furnished upon application. Keep in cool place. Shake before opening." "Everybody's Full Cream Concentrated Milk, sterilized, is made from fresh whole cow's milk, produced under strict sanitary rules, is unadulterated, evaporated to a cream-like consistency. No cream is taken from the milk; nothing but the water is abstracted from the original milk; nothing added. It is pure and wholesome. Unsweetened. 20 oz. size. 4 doz. to case."

Examination of twelve cans of said product by the Bureau of Chemistry of this Department showed each can to be short weight, the shortage in each instance amounting to $4\frac{1}{2}$ or more ounces, or a total average shortage of 22.95 per cent. A second sample consisting of 96 cans examined showed accurate net weight of from $13\frac{3}{4}$ to $16\frac{1}{2}$ ounces, or an average net weight of $15\frac{7}{16}$ ounces, equivalent to a shortage of 22.81 per cent. The libel alleged that the milk after

transportation from Illinois into Missouri remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, because the labels on said milk represented each can to contain 20 ounces when in fact the said cans contained less than 20 ounces, as shown by the aforesaid examinations, and that the product was therefore liable to seizure for confiscation.

On May 31, 1911, the cause coming on to be heard, the M. & O. Milk Co., claimants, by its attorneys, entered its voluntary appearance and waived service of process, and the said libelant and said claimant by their said attorneys consented to an adjudication and decree by the court. Whereupon the court found the said product to be misbranded as alleged in the libel, and on the aforesaid date entered a decree condemning and forfeiting same to the United States, and directed the marshal to label said product correctly, and sell the same at public sale upon such terms and conditions as would not violate the aforesaid act, with the proviso, however, that said product should be delivered to the above mentioned claimants upon paying the cost of the proceedings and executing and delivering a good and sufficient bond in the sum of \$500, on condition that the said product would not be disposed of otherwise in violation of law.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 14, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1115.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED ADULTERATION AND MISBRANDING OF OLEOMARGARINE.

On January 31, 1911, the United States Attorney for the Eastern District of Missouri, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Jesse A. Steele, doing business as Wisconsin Creamery Co., alleging shipment by him, in violation of the Food and Drugs Act, on March 23, 1910, from the State of Missouri into the State of Illinois, of a quantity of butter which was adulterated and misbranded. The pail containing the product bore no label, but was wrapped in a piece of pink paper on which there was stamped in very faint letters so as to be almost imperceptible the words "Wisconsin Creamery Co. 1242 S. Broadway, St. Louis, Mo. ——— pounds Oleomargarine."

Analysis of samples of this product made by the Bureau of Chemistry of this Department showed it to be oleomargarine. Adulteration was alleged for the reason that the article was purchased and shipped under the name of "Wisconsin Creamery Butter," when in fact a substance known as oleomargarine had been mixed and packed with it so as to reduce, lower, and injuriously affect its quality and strength, and for the further reason that the substance known as oleomargarine had been substituted in part for the article. Misbranding was alleged for the reason that the said product was sold under the distinctive name of another article, to wit, Wisconsin Creamery Butter, when in fact it was an imitation thereof, composed in most part of oleomargarine.

On June 6, 1911, the defendant was arraigned and pleaded not guilty, whereupon the case was called for trial; the jury was sworn, and testimony on behalf of the United States was heard and concluded, and by direction of the court a verdict of not guilty as to each and every count of the information was returned by the jury, and the defendant discharged.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *September 14, 1911.*

Issued October 18, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1116.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF FROZEN EGG.

On May 19, 1911, the United States Attorney for the Northern District of Illinois, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Bennett Howard Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on December 19, 1910, from the State of Illinois into the State of Massachusetts, of a quantity of frozen eggs, which were adulterated.

An examination made by the Bureau of Chemistry of this Department of samples of said product showed organisms per cc developing after 4 days on plain agar at 25° C. No. 1, 12,500,000 and No. 2, 20,600,000; at 37° C. No. 1, 570,000 and No. 2, 11,000,000; bile fermentation tubes after 4 days at 37° C. No. 1, gas present in 0.0001 cc; No. 2, gas present in 0.0001 cc, 0.00001 cc, 0.000001 cc; bad odor. Adulteration was alleged for the reason that said product consisted of a filthy, decomposed, or putrid animal substance as shown by said analysis.

On June 12, 1911, the defendant entered a plea of guilty. Evidence was heard on June 13, 1911, and on June 21, 1911, defendant was fined \$100 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 14, 1911.*

10079—No. 1116—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1117.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CONDENSED MILK.

On December 12, 1910, the United States Attorney for the Northern District of Illinois, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Libby, McNeill & Libby, a corporation of Morrison, Ill., alleging shipments by it, in violation of the Food and Drugs Act, on June 2, 1910, from the State of Illinois into the State of Louisiana, of a quantity of condensed milk, which was misbranded. The products were labeled: (Sample I. S. No. 2428-c) "Rubric Brand Condensed Milk. Emery Food Co., Chicago, U. S. A. * * * Net weight 15 ounces. Rubric Brand Condensed Milk Packed at Morrison, Illinois." (Sample I. S. 2429-c): "Libby's Condensed Milk. Libby, McNeill & Libby Chicago, U. S. A. Net weight 15 ounces * * *."

Examinations of samples of said products made by the Bureau of Chemistry of this Department showed sample I. S. 2428-c, consisting of 18 cans of Rubric Brand Condensed Milk, to have an average shortage in weight of 3.25 per cent, while sample I. S. 2429-c, consisting of 18 cans of Libby's Condensed Milk, showed an average short weight of 3.6 per cent. Misbranding was alleged for the reason that the labels represented the product to have a net weight of 15 ounces when in fact they were short in weight, and the statements on the label were therefore false and misleading.

On December 14, 1910, the defendant entered a plea of nolo contendere, and the matter was taken under advisement by the court. On June 23, 1911, the court fined defendant \$50.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., September 15, 1911.

10101°—No. 1117—11

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1118.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED ADULTERATION AND MISBRANDING OF VANILLA EXTRACT; ADULTERATION OF PEPPER.

In February, 1911, the United States Attorney for the Eastern District of Missouri, acting upon reports by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Eddy & Eddy Manufacturing Co., a corporation, St. Louis, Mo., alleging shipments by it, in violation of the Food and Drugs Act, on August 7, 1909, from the State of Missouri into the State of Iowa, of a quantity of vanilla extract which was adulterated and misbranded, and on January 25, 1910, a quantity of pepper from the State of Missouri into the State of Oklahoma, which was misbranded. The vanilla extract was labeled: "Eddy's Gold Medal Extract of Vanilla. Eddy & Eddy Mfg. Co., St. Louis." The pepper was labeled: " $\frac{1}{2}$ lb. full. Eddy's Extra high grade pure ground pepper Eddy & Eddy, St. Louis, Mo. As we use the utmost care in selecting and grinding our high grade package spice, using none but choice plantation grown spice, they will be found far superior in quality to other brands of package spice or spice sold in bulk. Eddy & Eddy. The contents of this package we guarantee pure and contains full net weight of our high grade spice. Eddy & Eddy. Pepper."

Samples of the respective products were analyzed by the Bureau of Chemistry of this Department with the following results: Vanilla extract: alcohol, per cent by volume 46.39 per cent; methyl alcohol, per cent by volume, none; glycerol, 21.78 per cent; sucrose, none; vanillin, none; coumarin, none; resins, apparently normal; color, no artificial detected. Pepper: capacity of package, O. K.; crude fibre, 14.68 per cent; total ash, 8.31 per cent; water-soluble ash, 1.66 per

cent; ash insoluble in 10 per cent HCl, 2.59 per cent; microscopical examination, relatively large proportion of pepper shells and débris.

Adulteration of the vanilla extract was alleged in the first count of the information for the reason that said extract was not vanilla extract as the same is known to the trade and generally recognized and understood by the public, in that it did not contain extract of vanilla bean in any appreciable or beneficial quantity, but that other substances had been mixed and packed with said product so as to lower, reduce, or injuriously affect its quality and strength and had been substituted wholly or in part for said extract of vanilla. Misbranding of the said vanilla extract was alleged in the second count of the information for the reason that the words "Extract of Vanilla" appearing on the label were false and misleading and calculated to mislead and deceive the purchaser for the reason that said product did not contain or consist of the extract of the vanilla bean, without which ingredient said product was not entitled to be called and was not extract of vanilla, and for the further reason that said product was in imitation of and sold under the distinctive name of another article, to wit, vanilla extract.

Adulteration was charged against the pepper in the third count of the information for the reason that said product was not an extra high grade pure ground pepper, as represented on the label, but, on the contrary, there had been so mixed and packed with said product a large and excessive amount of shells, dirt, sand, and débris, as to reduce, lower, and injuriously affect its quality and strength.

The case coming on for trial on June 7, 1911, a jury was called and rendered a verdict of guilty on the third count for adulteration of the pepper, and failed to agree upon a verdict upon the first and second counts of the information for adulteration and misbranding of the vanilla extract. Whereupon, the court entered an order of mistrial and continuance as to the first and second counts, and imposed a fine of \$50 and costs against the defendant on the third count, whereupon the defendant filed a motion for a new trial and in arrest of judgment.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *September 15, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1119.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

On May 20, 1911, the United States Attorney for the Eastern District of Washington, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against W. J. Wilson & Son, alleging shipment by them, in violation of the Food and Drugs Act, on or about September 15, 1910, from the State of Washington into the State of Idaho, of a quantity of vinegar which was adulterated and misbranded. The said vinegar was labeled: "Fountain Pure Cider Vinegar. Packed for Idaho Merc. Co., Lewiston, Idaho."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

	Grams per 100 cc.
Solids.....	1.07
Nonsugar solids.....	.67
Sucrose by copper.....	.03
Reducing sugar invert.....	.37
Per cent sugar in solids.....	37.4
Polarization direct temperature 20° C.....°V	+6.6
Polarization invert 20° C. (normal weight).....°V	+2.0
Polarization invert 87° C.....°V	+2.0
Ash.....	.08
Ash, soluble in water.....	.07
Ash, insoluble in water.....	.01
Alk. sol. ash, cc N/10 acid 100 cc.....	7.2
Sol. phos. acid, mgs per 100 cc.....	1.2
Insol. phos. acid, mgs per 100 cc.....	3.6
Acid, as acetic.....	4.64
Volatile acid, as acetic.....	4.56
Fixed acid, as malic.....	.09
Lead precipitate.....	Slight turbidity.
Color, degrees, brewer's scale (0.5 in cell).....	10.0
Polarization direct 20° C. (normal weight).....	+2.0
Glucose (factor 163).....per cent.	1.2
Dextrin.....	None detected.

Adulteration was alleged for the reason that a product made by the fermentation and acidification of glucose as shown by the aforesaid analysis had been mixed with said vinegar so as to reduce, lower, and injuriously affect its quality and strength, and substituted wholly or in part therefor. Misbranding was alleged for the reason that the label above set forth represented the product to be a pure cider vinegar when in fact it was an adulterated product prepared in imitation of and offered for sale under the distinctive name of another article, to wit, pure cider vinegar, which representation was false and misleading.

On June 9, 1911, the defendant company pleaded guilty and was fined \$25 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 16, 1911.*

1119



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1120.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF CIDER VINEGAR.

On May 20, 1911, the United States Attorney for the Eastern District of Washington, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against W. J. Wilson & Son, alleging sale by said company under a general guaranty to Powell-Sanders Co., a corporation, of a quantity of adulterated and misbranded cider vinegar which was subsequently shipped by the said Powell-Sanders Co. in the same condition as when received from the said W. J. Wilson & Son, on or about August 20, 1910, from the State of Washington into the State of Idaho, to the Idaho Mercantile Co., a corporation. The barrels containing said vinegar were labeled: "Le Roi Brand Absolutely Pure Cider Vinegar. Packed by Powell-Sanders Co., Wholesale Grocers, Importers and Manufacturers. Spokane, Wash."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: Specific gravity 1.0137; alcohol by volume, 1.17 per cent; glycerol, 0.04; solids 2.35; nonsugar solids, 1.70; red. sugars direct as dextrose, 0.495; red. sugars invert as dextrose, 0.646; per cent sugar in solids, 27.5; polarization direct at 26° C., +11.65; polarization invert at 26°, +11.72; polarization invert at 87°, +11.54; ash, 0.176; soluble ash, 0.117; insoluble ash, 0.059; alk. soluble ash, 15.2; sol. phos. acids mgs. per 100 cc., none; insol. phos. acids mgs. per 100 cc., 10.66; acid as acetic, 4.69; volatile acid as acetic, 4.69; fixed acid as malic, slight trace; lead precipitate, very little; color degrees brewer's scale 0.5 in., 6.5; color removed by Fuller's earth, 65.5; alcohol precipitate, 0.833; pentosans, 0.0365. Adulteration was alleged because a substance, to wit, vinegar made from glucose, had been mixed and packed with the

product so as to reduce or lower or injuriously affect its quality or strength, and had been substituted wholly or in part for the cider vinegar. Misbranding was alleged for the reason that it was invoiced and sold as cider vinegar when in fact it was an adulterated product prepared in imitation of and sold under the distinctive name of another article, to wit, cider vinegar.

On June 9, 1911, the defendant company pleaded guilty, and was fined \$25 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 18, 1911.*

1120



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1121.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CANE AND MAPLE SUGAR BUTTER.

On November 25, 1910, the United States Attorney for the Southern District of Iowa, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Marshalltown Syrup & Sugar Co., alleging shipment by it, in violation of the Food and Drugs Act, on December 4, 1909, from the State of Iowa into the State of Texas, of a quantity of sugar butter which was misbranded. The product in question was labeled: "Fireside Brand Cane & Maple Sugar Butter Packed for Boren-Stewart Co., Dallas, Texas. Fireside Cane and Maple Sugar Butter. For cake, frosting, filling, and icing. It is delicious on hot cakes or biscuits. Also spread on bread and butter—goes further than maple sugar or syrup and much more nutritious. This package contains one pint and is a mixture of cane and maple sugar so blended as to give the most pleasant and lasting flavor and a substance used to produce inversion of cane sugar. Packed for Boren-Stewart Co., Dallas, Texas."

Analysis of said product by the Bureau of Chemistry of the United States Department of Agriculture showed it to contain one-tenth of 1 per cent benzoate of soda. Misbranding was alleged for the reason that the statement on the above label, to wit, "cane and maple sugar butter" without qualification is false and misleading as it conveys the impression that the product is composed only of the ingredients named, whereas in addition thereto the said product contains benzoate of soda of which the purchaser is not informed.

On May 16, 1911, the defendant pleaded guilty, and on May 22, 1911, the court imposed a fine of \$20.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 18, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1122.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CANE AND MAPLE SUGAR BUTTER.

On November 25, 1910, the United States Attorney for the Southern District of Iowa, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Marshalltown Syrup & Sugar Co., alleging shipment by it, in violation of the Food and Drugs Act, on or about April 29, 1910, of a quantity of a food product which was misbranded. The said product was labeled: "Dickinson's Cane and Maple Sugar Butter. If syrup rises to top, stir thoroughly. Put up by the Marshalltown Syrup and Sugar Company, Marshalltown, Iowa. This package contains one pint."

Examination of samples consisting of 17 cans of this product by the Bureau of Chemistry of the United States Department of Agriculture showed an average shortage of 12.3 per cent of the amount actually contained in said cans. Misbranding was alleged for the reason that the statement on the label that the package contained one pint was false and misleading in that said package did not contain one pint, but on the contrary contained an average of 12 per cent less than measure indicated.

On May 16, 1911, the defendant pleaded guilty, and on May 22, 1911, the court imposed a fine against the defendant of \$20.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 18, 1911.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1123.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF HONEY.

On May 13, 1911, the United States Attorney for the Southern District of Iowa, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Albert A. Deiser & Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on June 15, 1910, and November 14, 1910, from the State of Iowa into the State of Nebraska, of a quantity of honey which was misbranded. The product was labeled: "Mrs. Morrison's Brand Pure Food Products Honey Net Weight 8 Ounces Prepared by A. A. Deiser & Company, Des Moines, Iowa."

Examination made by the Bureau of Chemistry of the United States Department of Agriculture of two packages of this product taken from the shipment of June 15, 1910, showed an average shortage of 4.86 per cent in weight. An examination of six packages by said Bureau from the shipment of November 14, 1910, showed an average shortage in weight of 3.45 per cent. Misbranding was alleged for the reason that the weight of the product was not plainly and correctly stated on the outside of the package.

On May 22, 1911, the defendant pleaded guilty, and was fined \$10 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 18, 1911.*

10442°—No. 1123—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1124.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF TURPENTINE.

On May 19, 1911, the United States Attorney for the District of Connecticut, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, praying condemnation and forfeiture of five barrels of turpentine in the possession of the Apothecaries Hall Company, Waterbury, Conn. The product was labeled: "Pure Spirits of Turpentine."

Analyses of samples from said consignment, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following amounts of mineral oil: 9.6 per cent, 9.4 per cent, 9.6 per cent, 9.6 per cent. The libel alleged that the turpentine, after shipment by the Pennsylvania Alcohol & Chemical Co., of Philadelphia, from Pennsylvania into Connecticut, remained in the original unbroken packages, and was adulterated and misbranded in violation of the Food and Drugs Act, June 30, 1906, and was, therefore, liable to seizure for confiscation. Adulteration was alleged because the strength and purity of the product was below the professed standard or quality under which it was sold. Misbranding was alleged because the label represented the product as a pure spirits turpentine, which was false and misleading, because said product was not a pure spirits turpentine as represented.

On June 19, 1911, no person having appeared as claimant, and a general default having been entered against all claimants, the court entered a decree condemning and forfeiting said property to the United States for the reasons set forth in the information, and ordered the marshal to sell the said five barrels of turpentine for mechanical uses only at a price sufficient to pay the costs of the proceedings and in default of such sale, to destroy the said turpentine.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 18, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1125.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COFFEE.

On June 8, 1911, the United States Attorney for the Southern District of New York, acting upon the report by the Secretary of Agriculture, filed information in the Circuit Court of the United States for said district against Samuel Wilde's Sons Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about October 31, 1910, from the State of New York into the State of Indiana of a quantity of coffee which was misbranded. The products involved in this case are designated for purposes of identification as I. S. No. 10321-c and I. S. No. 10322-c. The product designated as I. S. No. 10321-c was labeled: "Java 112-16-96. J. T. Power & Son, Indianapolis, Ind. Emp. Line." and was invoiced and sold as Java coffee; and the product designated I. S. No. 10322-c was labeled: "121-17-104 Mocha. J. T. Power & Son, Indianapolis, Ind. Emp. Line" and was invoiced and sold as Mocha coffee.

Examination by the Bureau of Chemistry of the United States Department of Agriculture of samples of the product designated I. S. No. 10321-c showed it to consist of roasted coffee from the Padang district of the Island of Sumatra, while examination of samples of the product numbered I. S. 10322-c showed it to consist of Harrar coffee, formerly known as Longberry Mocha. Misbranding was alleged for the reason that the label on the former of said products conveys the impression that the said coffee is that grade known to the trade and public generally as Java, when it is a product of the Padang district of the Island of Sumatra, while the label on the latter of said products is such as to convey the impression that the said product is that grade of coffee known to the trade and public generally as Mocha, when, in fact, it is that grade known as Harrar or Longberry Mocha, a distinct grade from the standard Mocha coffee of commerce, and the statements on the labels were therefore false and misleading and such as to deceive and mislead the purchasers of the products in question.

On June 17, 1911, the defendant corporation pleaded guilty and was fined \$25.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., September 18, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1126.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF VANILLA EXTRACT, LEMON EXTRACT, ESSENCE OF BITTER ALMOND, ESSENCE OF WINTERGREEN, ESSENCE OF PEPPERMINT.

On September 7, 1910, the Christiani Drug Company, Inc., of the city of Washington, in the District of Columbia, offered for sale and sold within said District to John F. Earnshaw, an inspector of this Department, certain food products labeled as follows: (On carton) "Two ounces, Christiani's Premier Brand Extract of vanilla; contains 60 per cent. Alcohol. Christiani Standard of quality, Manufactured by Christiani Drug Company, Inc., 426 Ninth St., N. W., 638 Pennsylvania Ave., N. W., and Union Station, Washington, D. C. (Guaranty Legend) Serial No. 2318." (On carton) "Two ounces, Christiani Premier Brand Extract of Lemon, contains 92 per cent. Alcohol, Christiani Drug Company, Inc., 426 Ninth St., N. W., 638 Pennsylvania Ave., N. W., and Union Station, Washington, D. C., (Guaranty Legend) Serial No. 2318." The product marked I. S. No. 5995-c was labeled: (On carton) "Two ounces, Christiani's Premier Brand Essence of Bitter Almond. Contains 77 per cent. Alcohol. Christiani Drug Company, Inc., 429 Ninth St., N. W., 638 Pennsylvania Ave., N. W., Union Station, Washington, D. C., (Guaranty Legend) Serial No. 2318." The product marked I. S. No. 5996-c was labeled: (On carton) "Two ounces Christiani's Premier Brand Essence of Wintergreen; contains 91 per cent. Alcohol. Christiani Standard of Quality. Manufactured by Christiani Drug Company, Inc., 429 Ninth St., N. W., 638 Pennsylvania Ave., N. W., and Union Station, Washington, D. C., (Guaranty Legend) Serial No. 2318." The product marked I. S. No. 5997-c was labeled: (On carton) "Two ounces Christiani's Premier Brand Essence of Peppermint; contains 86 per cent. of Alcohol. Christiani Standard of quality. Manufactured by Christiani Drug Company, Inc., 429 Ninth St., N. W., 638 Pennsylvania Ave., N. W., and Union Station, Washington, D. C., (Guaranty Legend) Serial No. 2318."

These products, which, for purposes of identification, were designated by said inspector as I. S. Nos. 5993-c, 5994-c, 5995-c, 5996-c, and 5997-c, respectively, by which numbers they will be hereinafter referred to, were analyzed by the Bureau of Chemistry of the United States Department of Agriculture, and as the findings of the analysts and report thereon indicated that the products were misbranded within the meaning of the Food and Drugs Act of June 30, 1906, the said Christiani Drug Co., Inc., was afforded an opportunity for a hearing. As it appeared after hearing held that said sales were made in violation of the act, the Secretary of Agriculture reported the facts to the Attorney General with a statement of the evidence upon which to base prosecutions. In due course criminal informations were filed in the Police Court in the District of Columbia against the said Christiani Drug Co., Inc., charging the sales as aforesaid, and alleging misbranding of each of the aforesaid products on the ground that the labels of each of said products were false and misleading and calculated to mislead and deceive the purchaser in this, to wit, that each label contained statements as to the amount of the contents of the bottle, and content of alcohol, which were false, in that the bottles in each case contained a less amount of the product, and a different percentage of alcohol, than that stated on the label. Misbranding was further alleged in the case of the lemon extract, I. S. No. 5994-c, for the reason that the said label represented the product to be an extract of lemon when in fact it was not an extract of lemon but a diluted extract of lemon. The five informations filed against the defendant company contained a total of eleven counts, alleging misbranding as aforesaid.

On June 9, 1911, the said defendant company, through its secretary, Orlando G. Hall, entered a plea of guilty to each and every count of each information; whereupon the court imposed fines aggregating \$280.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 20, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1127.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF GELATINE.

On February 27, 1911, the United States Attorney for the Eastern District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 864 packages of gelatine, found on premises 999 North Second Street, Philadelphia, Pa., in the possession of William Montgomery & Co. The product was labeled: "Chalmers' Granulated Gelatine, (Guaranteed Legend) No. 2645. Manufactured by James Chalmers' Sons, Williamsville, New York. James Chalmers' Sons, Transparent Gelatine."

Chemical analyses and bacteriological examinations of two samples from said consignment by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

Chemical analysis of sample I. S. No. 16606-c.

Ash (per cent), 1.59.

Sulphites (mg per kilo), 6.

Gelatinizing power: 5 per cent aqueous solution forms a stiff jelly.

Odor and reaction: 5 per cent aqueous solution exposed to air 2 days—odor, bad; reaction, alkaline.

Bacteriological examination of sample I. S. No. 16606-c.

Organisms per gram developing on—

Gelatin at 20° C-----	117, 000, 000
Do-----	84, 000, 000
Number of liquefiers -----	3, 000, 000
Do-----	3, 000, 000
Gas-producing organisms in bile -----	1, 000, 000 (1)
Gas-producing organisms in dextrose-----	1, 000, 000 (1)
Gas-producing organisms in bile -----	1, 000, 000 (2)
Gas-producing organisms in dextrose-----	1, 000, 000 (2)
Gas developing in dextrose agar in dilution of 1:1,000,000.	

5 per cent aqueous solution exposed to air for 2 days emits unpleasant odor. Products adulterated in that they consist of portions of an animal unfit for food.

5 per cent solution exposed to air 2 days, odor bad. Odor on dissolving, gluey.

Chemical analysis of sample I. S. No. 16613-c.

Ash (per cent), 1.25.

Sulphites (mg per kilo), 7.5.

Gelatinizing power: 5 per cent aqueous solution forms a stiff jelly.

Odor and reaction; 5 per cent aqueous solution exposed to air 2 days—odor, bad; reaction, very slightly alkaline.

Bacteriological examinations of sample I. S. No. 16613-c.

Organisms per gram developing on—

Plain agar at 25° C.....	76, 000, 000
Do.....	96, 000, 000
Plain agar at 37° C.....	125, 000, 000
Do.....	65, 000, 000
Gelatine at 25° C.....	79, 000, 000
Do.....	68, 000, 000
Number of liquefiers.....	1, 000, 000
Gas-producing organisms in dextrose.....	1, 000, 000 (1)
Gas-producing organisms in bile.....	1, 000, 000 (1)
Gas-producing organisms in dextrose.....	1, 000, 000 (2)
Gas-producing organisms in bile.....	1, 000, 000 (2)
Gas in dextrose agar developed in dilutions of 1:1,000,000 (1); 1:1,000,000 (2).	

In addition a 5 per cent solution of this gelatine was turbid, had a bad gluey odor entirely different from gelatine.

The libel alleged that the gelatine after transportation from Virginia into Pennsylvania remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed animal substance, and was therefore liable to seizure for confiscation.

On June 12, 1911, claimant having withdrawn its appearance and signified that no further steps would be taken toward the recovery of the merchandise, and it appearing from the return of the marshal that he had seized 642 packages of said gelatine, the court entered a decree condemning and forfeiting the goods to the United States and ordered their destruction by the marshal, which order of the court was duly executed.

WILLIS L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 22, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1128.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF GELATINE.

On January 3, 1911, the United States Attorney for the Eastern District of Pennsylvania, acting upon a report from the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 288 packages of gelatine, in the possession of Wm. King & Co. The product was labeled: "Chalmers' Granulated Gelatine (Guarantee Legend) No. 2645. Manufactured by James Chalmers' Sons, Williamsville, New York. James Chalmers' Sons. Transparent Gelatine."

Chemical analyses and bacteriological examinations of two samples from said consignment by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

Chemical analysis of sample No. 16603-c.

Ash (per cent), 1.39.

SO₂ (mg per kilo), 12.

Gelatinizing power: 5 per cent aqueous solution forms a stiff jelly.

Odor and reaction: 5 per cent aqueous solution exposed to air 2 days.

Odor, bad; reaction, very slightly alkaline.

5 per cent aqueous solution exposed to air for 2 days emits unpleasant odor.

Products adulterated in that they consist of portions of an animal unfit for food.

5 per cent solution exposed to air 2 days, odor bad. Odor on dissolving, gluey.

Bacteriological analysis of sample I. S. No. 16603-c.

Organisms per gram developing on—

Plain agar at 25° C.....	90,000,000
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Do.....	66,000,000
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Plain agar at 37° C.....	71,000,000
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Do.....	49,000,000
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Plain gelatine at 20° C.....	73,000,000
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Do.....	56,000,000
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Number of liquefiers.....	1,000,000
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Do.....	4,000,000
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Gas-producing organisms on dextrose (B. coli isolated).....	1,000,000
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Chemical analysis of sample I. S. No. 16616-c.

Ash (per cent), 1.52.

Sulphites (mg per kilo), 8.

Gelatinizing power: 5 per cent aqueous solution forms a stiff jelly.

Odor and reaction: odor, bad; reaction, alkaline.

Bacteriological analysis of sample I. S. No. 16616-c.

Organisms per gram developing on—

Plain agar at 25° C-----	87, 000, 000
Gelatin at 20° C-----	58, 000, 000
Do-----	87, 000, 000
Number of liquefiers-----	700, 000
Gas producing organisms in bile-----	1, 000, 000 (1)
in dextrose-----	1, 000, 000 (2)
in bile-----	1, 000, 000 (2)

Gas developing in dilutions of 1:1,000,000 in dextrose agar.

5 per cent aqueous solution exposed to air for 2 days emits unpleasant odor.

Products adulterated in that they consist of portions of an animal unfit for food.

5 per cent solution exposed to air 2 days, odor bad. Odor on dissolving, gluey.

The libel alleged that the gelatine after transportation from the State of Virginia into the State of Pennsylvania remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy and decomposed animal substance and was therefore liable to seizure for confiscation.

On June 12, 1911, the claimant, having withdrawn its appearance and signified that no further steps would be taken toward the recovery of the merchandise, and it appearing from the return of the marshal that he had seized 270 packages of said gelatine, the court, on motion of the United States Attorney, entered a decree condemning and forfeiting said gelatine to the United States and ordered its destruction by the marshal, which order was duly executed.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., September 25, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1129.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

At the May term of the District Court of the United States for the District of Indiana the grand jurors of the United States within and for said district, acting upon a report of the Secretary of Agriculture, returned an indictment against J. W. Shorten, of said district, charging the shipment by him, on June 9, 1911, in violation of the Food and Drugs Act of June 30, 1906, from the State of Indiana into the State of Ohio, of a quantity of milk which was adulterated. Adulteration was charged in the indictment for the reason that said milk consisted in part of a filthy, decomposed, and putrid animal substance.

On May 17, 1911, the defendant company was arraigned and pleaded guilty to the indictment, whereupon the court entered a fine of \$25 and costs against the defendant.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 25, 1911.*

11237°—No. 1129—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1130.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

At the May term of the District Court of the United States for the District of Indiana the grand jurors of the United States within and for said district, acting upon a report of the Secretary of Agriculture, returned an indictment against E. R. Rounds, of Delaware, in said district of Indiana, charging shipment by him, on June 9, 1911, in violation of the Food and Drugs Act of June 30, 1906, from the State of Indiana into the State of Ohio of a quantity of milk, which was adulterated. Adulteration was charged in said indictment for the reason that the said milk consisted in part of a filthy, decomposed, and putrid animal substance.

On May 17, 1911, the defendant entered a plea of guilty and was fined \$25 and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 25, 1911.*

11237°—No. 1130—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1131.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about June 12, 1911, Benjamin F. Zimmerman, of Adamtown, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample of this product to be procured and analyzed. As it appeared from the findings of the analyst and report made that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, said Benjamin F. Zimmerman was afforded an opportunity to be heard, and as it appeared after the said hearing that this sale was made in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information was filed in the Police Court of the District of Columbia against the said Benjamin F. Zimmerman, charging that said milk was adulterated in that water had been mixed and packed with it in a manner so as to reduce and lower the quality of said milk.

On July 28, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 26, 1911.*

11335°—No. 1131—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1132.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about June 22, 1911, Charles A. Walter, of Doubs, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample of this product to be procured and analyzed. As it appeared from the findings of the analyst and report made that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Charles A. Walter was afforded an opportunity to be heard, and as it appeared after the said hearing that this sale was made in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information was filed in the Police Court of the District of Columbia against the said Charles A. Walter, charging that said milk was adulterated, in that water had been mixed and packed with it in a manner so as to reduce and lower the quality of said milk.

On July 15, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$15.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 26, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1133.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about July 8, 1911, William C. Null, of Doubs, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample of this product to be procured and analyzed. As it appeared from the findings of the analyst and report made that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said William C. Null was afforded an opportunity to be heard. As it appeared after the said hearing that this sale was made in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information was filed in the Police Court of the District of Columbia against the said William C. Null, charging that said milk was adulterated, in that water had been mixed and packed with it in a manner so as to reduce and lower the quality of said milk.

On July 15, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$15.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 26, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1134.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about June 22, 1911, William H. Orme, jr., of Lorton, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample of this product to be procured and analyzed. As it appeared from the findings of the analyst and report made that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said William H. Orme, jr., was afforded an opportunity to be heard. As it appeared after the said hearing that this sale was made in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information was filed in the Police Court of the District of Columbia against the said William H. Orme, jr., charging that said milk was adulterated, in that water had been mixed and packed with it in a manner so as to reduce and lower the quality of said milk.

On July 12, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 26, 1911.*

11335°—No. 1134—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1135.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF NO. 2 RED WHEAT.

On January 28, 1911, the United States Attorney for the Western District of Missouri, acting upon a report by the Secretary of Agriculture, filed information in four counts in the District Court of the United States for said district, against the Hall Baker Grain Co., a corporation, Kansas City, Mo., alleging shipment by it, in violation of the Food and Drugs Act, on or about May 3, 1909, from the State of Missouri into the State of Texas of a carload of wheat which was invoiced and sold as No. 2 red wheat, and which was adulterated and misbranded.

Examination of samples of said wheat by the dairy and food commissioner of the State of Texas, acting under the authority of the Secretary of Agriculture, showed the product to contain 33 per cent hard wheat and 7 per cent mixed wheat. Misbranding was alleged in the first count of the information for the reasons that said wheat was offered for sale and sold under the distinctive name of another article of food, to wit, red wheat, another and different article of food than the contents of said car, namely mixed wheat; and because said wheat was labeled and marked so as to deceive and mislead the purchaser thereof into the belief that it was red wheat, when in fact it was not red wheat, but was mixed wheat. Misbranding was alleged in the second count for the reasons that said wheat was offered for sale and sold under the distinctive name of another article of food, to wit, No. 2 red wheat, another and different article of food than the contents of said car, namely mixed wheat; and because said wheat was labeled and marked so as to deceive and mislead the purchaser thereof into the belief that it was No. 2 red wheat, when in fact it was not No. 2 red wheat, but was mixed wheat.

Adulteration was alleged in the third count for the reasons that other and different substances and articles, to wit, various kinds and grades of wheat, had been mixed and packed with said wheat so as to reduce, lower, or injuriously affect the quality and strength of said wheat, and because other and different substances, to wit, various kinds and grades of wheat, had been substituted in part for the wheat represented to have been sold and shipped as red wheat; and further because a valuable constituent or part of the wheat sold and shipped and represented as red wheat had been in part abstracted and removed, that is to say, a certain portion of red wheat had been abstracted and removed therefrom and a like quantity of various kinds and grades of wheat inferior and less valuable had been substituted therefor. Adulteration was alleged in the fourth count for the reasons that other and different substances and articles, to wit, various kinds and grades of wheat, had been mixed and packed with said wheat so as to reduce, lower, and injuriously affect its quality and strength; that other and different substances, to wit, various kinds and grades of wheat, had been substituted in part for the wheat represented and pretended to have been sold and shipped, to wit, No. 2 red wheat; that a valuable constituent or part of the wheat sold and shipped, to wit, No. 2 red wheat, had been in part abstracted and removed, that is to say, a certain portion of No. 2 red wheat had been abstracted and removed therefrom, and a like quantity of various kinds and grades of wheat inferior and less valuable had been substituted therefor; and that said wheat was mixed and packed with other kinds and grades of wheat in a manner whereby damage and inferiority were concealed.

On February 11, 1911, the case coming on for trial, the defendant pleaded not guilty and the case was tried by jury. On February 14, 1911, counts 1 and 3 of the information were dismissed on motion of the United States attorney; and on said date the case was submitted to a jury upon the testimony, argument of counsel, and the following instructions of the court:

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE WESTERN DIVISION OF
THE WESTERN DISTRICT OF MISSOURI.

UNITED STATES OF AMERICA	} No. 2895.
v.	
HALL-BAKER GRAIN COMPANY.	

THE COURT'S CHARGE.

Gentlemen of the Jury, you have very patiently listened to the testimony introduced in this case, and the arguments of counsel. It now becomes my duty and pleasure to charge you as to the law. Under the system of jurisprudence in vogue in this country, it is the province of the jury to find the facts and base

your verdict upon the facts. It is the province of the Court to instruct you as to the law involved. The responsibility of determining the facts is upon you, and you alone. The responsibility for the law governing this case is upon me, and I alone must bear that burden. It is very important, therefore, in order that a just and true verdict may be rendered in this case and no injustice done to either party that I, in the first instance, shall give my best thought and effort to ascertain what the law is and to instruct you accurately in reference thereto. On the other hand, you can not be too deeply impressed with the responsibility that is upon you in the discharge of the responsibilities which now rest upon you in determining what the facts are. Both the government and the defendant are entitled to insist and expect that you shall give to the solution of the problem before you your very best thought and consideration, and I have no doubt but that you are keenly alive to that responsibility and will discharge it in a most satisfactory manner.

It has been stated to you over and over again during the progress of this trial that the information filed by the District Attorney against the defendant, the Hall-Baker Grain Company in his case some weeks ago, charges a violation of the Act of Congress approved June 30, 1906, which law is popularly known as the "Food and Drugs Act," or "The Pure Food Law." As you are aware, this act in a general way prohibits the manufacture and sale of misbranded and adulterated foods in the District of Columbia, and in the Territories of the United States, and forbids the transportation of misbranded and adulterated foods and drugs from one state of the United States to another of those states in interstate commerce. Congress would have no right or power under the Constitution of the United States to interfere in any way with the sale and transportation of food products within the borders of a single state; but under the Constitution the power to regulate commerce among the states is vested solely in Congress, and it is because of this power given Congress by the Constitution that this law was passed and is made effective in prohibiting the sale of adulterated and misbranded foods and drugs among the states. That is to say, all matters pertaining to the sale and transportation of foods and drugs that are misbranded or adulterated and which are intended for transportation from one state to another state, is left with Congress. It is by virtue of this fact that the United States Court has jurisdiction in this case.

The information filed by the District Attorney charges that the Hall-Baker Grain Company, a corporation of this state, shipped and delivered for shipment on or about the 3rd day of May, 1909, a carload of wheat; that this wheat was transported by the Hall-Baker Grain Company from Kansas City, Missouri, to the Walker Grain Company located at Fort Worth, Texas. If the defendant did ship and offer for shipment the carload of wheat in question and it was transported from Kansas City, Missouri, to Fort Worth, Texas, then that is a matter of interstate commerce and the provisions of the Food and Drugs Act with respect to the misbranding and adulterating of food products applies and this court has jurisdiction.

The information in this case is quite long. It is in two counts, counts one and three having been dismissed, leaving only counts two and four for your consideration. The second count charges a misbranding of an article of food, to wit, one carload of wheat. The fourth count charges an adulteration of a food product, to wit, one carload of wheat. The law relative to misbranding of food products, so far as it is applicable under the allegations of the information in this case, is as follows:

"Sec. 8. The term misbranded as used herein shall apply to all drugs or articles of food or articles which enter into the composition of food, the package

or label of which shall bear any statement, design or device regarding such article or the ingredients or substances contained therein, which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the state, territory or country in which it is manufactured or produced”.

and also provides that,

“For the purposes of this act, an article shall also be deemed to be misbranded in the case of food:

First, if it be an imitation of or offered for sale under the distinctive name of another article.

Second, if it be labeled or branded so as to deceive or mislead the purchaser * * *”.

Now under these provisions of the law the information charges “that the said wheat and article of food was offered for sale and sold under the distinctive name of another article, to wit, No. 2 red wheat, another and different article of food than the contents of said car, namely, mixed wheat”. That is to say, it is the contention of the government that the defendant in this case shipped and delivered for shipment in interstate commerce a food product, to wit, mixed wheat in bulk, which was sold and offered for sale under the distinctive name of another article of food, to wit, No. 2 red wheat. The issue, therefore, under this aspect of the case for the jury to determine is as to whether or not the defendant sold or offered for sale in interstate commerce mixed wheat under the distinctive name of another article of food, to wit, No. 2 red wheat.

The information further charges in respect to misbranding that said wheat, and article of food, was labeled and marked so as to deceive and mislead the purchasers thereof, that is to say, said wheat and article of food, was labeled and marked No. 2 red wheat when in truth and in fact it was not red wheat, but was as a matter of fact mixed wheat.

The contention of the government in this respect being, as I understand it, that the account of sales and certificate of inspection which passed from the defendant company to the Walker Grain Company constitutes a labeling and branding of the article of food transported in interstate commerce, to wit, wheat, and that this labeling or branding was of such a nature as to deceive and mislead the purchaser. In other words, the government contends that inasmuch as the account of sales rendered by the Hall-Baker Grain Company to the Walker Grain Company for this wheat designates it as No. 2 red wheat; that the certificate of inspection issued by the Chief Grain Inspector of Kansas City, Missouri, a state officer, and consigned by the Hall-Baker Grain Company to the Walker Grain Company at Fort Worth, Texas, designates this food product as No. 2 red wheat, and that this constitutes a misbranding under the sub-division of foods of the Food and Drugs Act.

The above provisions of the law and the allegations of the information all refer to the charge of misbranding in this case, and I will refer more specifically to these matters hereafter in my charge and will now proceed to quote the law with respect to the charge in the information as to adulteration.

Section 7 of the Food and Drugs Act with respect to adulteration, so far as applicable to the charges contained in the information in this case, is as follows:

“Sec. 7. That for the purposes of this act an article shall be deemed to be adulterated in the case of foods:

First, if any substance has been mixed or packed with it so as to reduce or lower or injuriously affect its quality or strength.

Second, if any substance has been substituted wholly or in part for the article.

Third, if any valuable constituent of the article has been wholly or in part abstracted.

Fourth, if it be mixed, colored, powdered, coated, or stained in a manner whereby damage or inferiority is concealed."

The fourth count of the information charges a violation of these four provisions of Section 7 of the Food and Drugs Act in the case of foods, as follows:

"(a) That other and different substances and articles, to wit, various kinds and grades of wheat, had been mixed and packed with said wheat and article of food so as to reduce, lower and injuriously affect the quality and strength of said wheat and article of food.

(b) That other and different substances, to wit, various kinds and grades of wheat, had been substituted in part for the wheat and article of food represented and pretended to have been sold and shipped, to wit, No. 2 red wheat.

(c) That a valuable constituent or part of the wheat and article of food sold and shipped, and pretended to have been sold and shipped, to wit, No. 2 red wheat, had been in part abstracted and removed, that is to say, a certain portion of No. 2 red wheat had been abstracted and removed therefrom, and a like quantity of various kinds and grades of wheat inferior and less valuable, had been substituted therefor.

(d) That said wheat and article of food was mixed and packed with other kinds and grades of wheat in a manner whereby damage and inferiority were concealed".

In other words, the information charges the violation of the four sections of the Food and Drugs Act quoted above relative to adulteration as to No. 2 red wheat.

Now to re-state to you in simpler form, if I can, the charges in the information with respect to adulteration, I have to say, that as I understand it, the government charges that the wheat shipped and offered for shipment as detailed to you in the evidence in this case was adulterated because the defendant sold or pretended to sell to the Walker Grain Company in Fort Worth, Texas, No. 2 red wheat; that as a matter of fact there was hard wheat of various kinds mixed and packed with this No. 2 red wheat so as to reduce or lower or injuriously affect its quality or strength.

Second, the government contends that it was adulterated because a substantial quantity of hard wheat had been substituted in part for the No. 2 red wheat and this mixture was in fact shipped in interstate commerce by the defendant company.

Third, that the wheat in question was adulterated because a valuable constituent, to wit, No. 2 red wheat, which was the article pretended to have been sold, had been wholly or in part abstracted and hard wheat substituted therefor.

And further the government contends that the wheat in question was adulterated because it had been mixed and packed in a manner whereby damage and inferiority is concealed, that is, that hard wheats of various varieties and kinds had been mixed with No. 2 red wheat, and that this mixing hard wheat with the soft wheat concealed damage and inferiority. This is, as I understand it, the government's position with respect to adulteration.

As stated counts one and three of the information have been dismissed on motion of the United States Attorney, leaving counts two and four for your consideration. To both counts two and four, the defendant has entered its plea of not guilty. A plea of not guilty challenges and puts in issue all material allegations in counts two and four of the information, thereby calling from the government such testimony and evidence as to show the guilt of the defendant beyond a reasonable doubt before you can find a verdict of guilty under either of those counts. A reasonable doubt means, as the term implies, that there must be no reasonable doubt. While this is not a doubt sought after, or a

captious doubt, but it means such a doubt as would make you hesitate to act on and concerning some matter of importance to yourself or one of your family. If the evidence on the part of the government has so satisfied you as to leave no reasonable doubt in the sense to which I have just alluded, then the proofs are sufficient to warrant a conviction. There is a presumption of innocence attending the defendant in all criminal prosecutions like this. This presumption of innocence stands as a fact like any other fact in the case, but by presumption is not meant a conclusive presumption or that which could not be overcome. It is simply a presumption to be given such weight as in your judgment it is entitled to receive, and you will keep in mind that you will consider this question of reasonable doubt and this presumption of innocence, and then take all of the testimony and evidence and say whether or not your mind is satisfied of the guilt of the defendant either under count two or under count four, and if you are so satisfied your verdict will be that of guilty, and if not so satisfied your verdict will be that of not guilty.

I hand you herewith four forms of verdicts, one of guilty and one of not guilty under the second count, and one of guilty and one of not guilty under the fourth count. After reaching a conclusion you will have your foreman sign one of the verdicts as to each of said counts and bring that into court as your verdict, destroying the other two forms.

The defendant in open court conceded that the wheat in question was shipped from Kansas City, Missouri, to Fort Worth, Texas, in car No. 40724 A. T. & S. F. to the Walker Grain Company, Fort Worth, Texas, and that the car was sealed and that the doors had not been opened while the car was in transit for shipment, and was in the same condition when received at Fort Worth, Texas, as when started on its trip from Kansas City, Missouri, and you will take such agreement in open court as facts without further testimony, and you will have no controversy upon that proposition of fact.

Directing your attention now to the charges in the second count of the information with respect to misbranding, you are instructed that the matter of misbranding is under two heads:

First, the information charges that the defendant is guilty of misbranding the wheat in question, because it sold and offered for sale said wheat in interstate commerce as No. 2 red wheat, when as a matter of fact it was mixed wheat. The government contends that No. 2 red wheat is a distinctive trade name applied to certain quality of soft wheat and is a term that is distinct and well understood by grain men, millers and elevator men throughout this section of the country, and that it has in its commercial sense a well understood meaning. The defendant, as I understand it, denies that No. 2 red wheat is a distinctive trade name applied to a particular quality of red wheat, and this forms a question of fact for you to determine. The Court instructs you that if you find and believe beyond a reasonable doubt, as that term has been heretofore explained to you, that the defendant did sell and offer for sale in interstate commerce the wheat in question under the distinctive trade name of No. 2 red wheat, and that that term is well understood in a commercial sense by millers and dealers in grain, then said wheat was misbranded and your finding will be in favor of the government upon this issue. On the other hand, if you find and believe from the evidence that No. 2 red wheat is not a distinctive trade name and is not so understood among dealers in grain, then your finding will be for the defendant as to this phase of the question of misbranding.

You are further instructed on this question as to the second subdivision of misbranding. The food in question, as you are well aware, was that of a carload of wheat in bulk, and was not sacked or in boxes, or packages of any

kind, but many hundreds of bushels of wheat in the one car. The government contends that it would be a physical impossibility, or at least it would be very inconvenient, if it could be done at all, to put or print a written label on such wheat in bulk. If you find that to be so, that is to say, that it would be either impossible or most inconvenient to thus label a car of wheat in bulk, you are instructed that the label in such a case consists of the designation of the quality by an invoice sheet and by a certificate of inspection made by inspectors in the employ of the state of Missouri, and issued to the consignor, and with or separately sent to the purchaser at Fort Worth, Texas; that, within the meaning of the statute, would be the label or brand as designated by the seller to the purchaser in question of the wheat. That is to say, it is the contention of the government that the designation in the accounts sales and in the certificate of inspection above referred to, of the wheat in question, as No. 2 red wheat, constitutes a label and brand of the wheat as No. 2 red wheat. You are therefore instructed that if you find and believe from the evidence, beyond a reasonable doubt, that the defendant, at or about the time this wheat was shipped in interstate commerce and sold or offered for sale by it to the Walker Grain Company at Fort Worth, Texas, rendered an account sales to the Walker Grain Company, wherein the wheat in question was designated as No. 2 red wheat, when, in fact, it was mixed wheat, and sent or caused to be sent to the Walker Grain Company a certificate of inspection issued by the grain inspector of the state of Missouri, and that these papers constitute a part of the transaction connected with the sale of said wheat, then the court instructs you that said wheat was misbranded within the meaning of the statute in question, and your verdict will be for the government upon this branch of the question of misbranding. If, on the other hand, you find and believe that the account sales and the certificate of inspection were not sent to the Walker Grain Company by the defendant as a part of this transaction, and that the wheat in question was not designated as No. 2 red wheat, then your verdict will be for the defendant upon this branch of the question.

Upon the question of adulteration, under the fourth count of the information herein, the court instructs you that the information charges, in substance, that the wheat in question was mixed with hard wheat in such a way as to reduce and lower and injuriously affect the quality and strength of the wheat; that is to say, that the defendant offered for sale and pretended to sell to the Walker Grain Company, of Fort Worth, Texas, No. 2 red wheat, when, as a matter of fact, it was mixed with hard wheat of various kinds and qualities. You have heard the testimony of the witnesses as to the grading of this wheat. It is the contention of the defendant in this matter that it did not see the wheat that it sold the Walker Grain Company, and that it did not have anything to do with the inspection thereof or the grade that was to be put upon the wheat; that this was a matter entirely within the province of the state officials of the state of Missouri, but that they had no control over that. Furthermore, that it was provided in the contract of sale that the wheat was to be sold in accordance with the Missouri inspection grades and weights. The court instructs you that this is not a matter of defense, but only goes to the amount of fine to be imposed in the event you find a verdict of guilty under this count, and if there is a conviction the amount of the fine is to be determined by the court, and with which you have nothing to do.

You can, gentlemen of the Jury, very well understand why this is so. If the National Pure Food law is to be of any value to the people, and especially to the consumer of the food products that are shipped in interstate commerce in such large amounts throughout this country, it must not depend for its con-

struction upon state officers and contracts between elevator men and millers or other people dealing in food products, other than the consumer himself. Indeed, it is my belief that even if a national officer or employe of the Government should falsely or erroneously misbrand or adulterate a food product which is transported in interstate commerce, it would not avail the defendant as a defense, because, the question comes back for your determination; Was the wheat in question No. 2 Red Wheat, or was it a mixed wheat containing quite a percentage, more than 25 per cent, of hard wheat? This is a question of fact for you to determine from all the evidence that has been introduced in the case. If you find that the No. 2 red wheat was thus mixed with hard wheat of various kinds, then the court instructs you that it was adulterated within the meaning of this law and your verdict will be for the Government upon that issue under the fourth count herein. If, on the other hand, you do not believe from the evidence, beyond a reasonable doubt, that the wheat was mixed with hard wheat in sufficient quantities to make it of a lower grade than No. 2 Red Wheat, then your verdict will be for the defendant.

There are three other charges of adulteration which are all practically the same. The first of the remaining three charges that if any substance has been substituted, wholly or in part, for the article sold, or if any valuable constituent of the article has been wholly or in part abstracted, and third, if it has been mixed whereby inferiority has been concealed, then there is adulteration. These three matters are all practically the same thing, stated in different ways. If hard wheat was mixed with the No. 2 red wheat, then, in that sense, hard wheat has been substituted in part for the article sold. Again, if No. 2 red wheat has been taken out and replaced by hard wheat, then a valuable constituent of the article has been abstracted in part, and likewise, if hard wheat has been mixed with the No. 2 red wheat in a manner whereby inferiority is concealed, then it has been adulterated within the meaning of the Act. But, whether or not the mixing of hard wheat with soft wheat does conceal inferiority, is a question of fact for you to determine, and if you find and believe from the evidence, beyond a reasonable doubt, that such is the case, then your verdict will be for the Government upon this branch of the case. If, on the other hand, you do not believe that the mixing of hard wheat with the No. 2 red wheat does conceal inferiority, then your verdict will be in favor of the defendant upon that issue.

The defendant herein is a corporation, but you will have no prejudice against it by reason of that fact, and you will not show it any consideration by reason of that fact. But it is entitled to the same fair trial, neither more nor less, than if the defendant was an individual instead of being a corporation.

Many of the states have Pure Food and Drug Acts of their own. You see readily that the Act of the state legislature, however, cannot be operative against a shipment from Missouri to the State of Texas, as is charged in this case. Therefore, the Congress of the United States, in its wisdom, enacted a National Pure Food and Drugs Act which was approved by the President of the United States June 30, 1906, having now been in force for practically four years and a half. These Pure Food and Drugs Acts are for the purpose of enabling the consumer to get and receive what he orders and desires to receive. If the housewife and the servant girl who prepare foods, and the bakers, are of the opinion and believe that No. 2 red wheat is a soft wheat and makes a whiter flour and the product of which, when made into pastry or crackers or biscuits, is more attractive, or superior in quality, or more appetizing to those who are to eat the same, and if they order the flour made from such wheat and are willing to pay for the same, they have the right to receive the same when they order it. And it is the purpose of the Act of Congress of June 30,

1906, to protect the consumer in that right. The question is not whether hard wheat or mixed wheat will make a flour as nutritious as the soft wheat flour. The question is not whether hard wheat flour or mixed wheat flour is harmful as compared with the soft wheat flour. The consumer has the right to have what he wants to have that is obtainable and he is willing to pay therefor.

The defendant contends that it sold the wheat under a contract with the Walker Grain Company at Fort Worth, Texas, as No. 2 Red Wheat, and that it, the defendant, did not know but that such wheat was being shipped in the car, number as before stated, and that it, the defendant, had no intention of shipping any other quality or variety of wheat than No. 2 red wheat. But such contention, though you may agree with that contention, does not avail the defendant herein as a defense. And that is so because the question is under the fourth count as to adulteration, as well as under count two as to misbranding: Did the defendant ship, in interstate commerce, in the car of wheat in question, from Kansas City, Missouri, to Fort Worth, Texas, No. 2 red wheat, or did it ship the car of wheat, the same being mixed, a part of it No. 2 red wheat, and 25 or a greater per cent thereof hard wheat? And if, regardless of what defendant believed about it, the car was one of mixed wheat as before stated, then it is guilty of adulteration, providing you find the other elements entering into the question of adulteration and misbranding are present and appear, beyond a reasonable doubt, from the testimony in the case as hereinbefore stated.

This is an important case, although the penalty is small. This statute, like all other statutes, is to be enforced if the facts warrant it. If the facts do not warrant it your verdict will be *not guilty*, but if you are satisfied from the evidence that the facts warrant it, you will say so by your verdict. You will not treat the case lightly, but seriously and thoughtfully, giving it your very best judgment, regardless of whom it pleases and who are displeased, showing no favors to either side. Your verdict should express the truth.

Whereupon the jury rendered a verdict of guilty on the second and fourth counts of the information. On February 14, 1911, the defendant company filed a motion for a new trial, which motion was overruled by the court on June 16, 1911, and on July 22, 1911, the court imposed a fine of \$50 and costs. An appeal from said judgment was noted by the defendant to the United States Circuit Court of Appeals for the Eighth Circuit, which appeal is now pending.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., August 30, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1136.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about June 17, 1911, George H. Barnesley, Derwood, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said George H. Barnesley was afforded an opportunity for hearing, and as it appeared after the hearing held that the said sale was in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information was filed against the said George H. Barnesley in the Police Court of the District of Columbia, charging that the milk was adulterated, in that it was packed and mixed with a substance, to wit, water, which reduced and lowered its quality.

On July 6, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 27, 1911.*

11338°—No. 1136—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1137.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about June 12, 1911, George H. Bayliss, Lorton, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said George H. Bayliss was afforded an opportunity for a hearing, and as it appeared after hearing held that the said sale was in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information against the said George H. Bayliss was filed in the Police Court of the District of Columbia, charging that the milk was adulterated, in that it was packed and mixed with a substance, to wit, water, which reduced and lowered its quality.

On July 8, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 27, 1911.*

11338°—No. 1137—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1138.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF CREAM.

On or about June 21, 1911, Charles C. Mainhart, Barnesville, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, health officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Charles C. Mainhart was afforded an opportunity for hearing, and as it appeared after hearing held that the said sale was in violation of the act, the said health officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information against the said Charles C. Mainhart was filed in the Police Court of the District of Columbia, charging that the cream was adulterated, in that a valuable constituent of the article, to wit, milk fat, had been left out and abstracted wholly or in part.

On July 22, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$20.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., September 27, 1911.

11338°—No. 1138—11



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1139.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF WHITTLE'S EPSOM-LITHIA WATER.

On April 19, 1911, the United States Attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court for said district against the Whittle Springs Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about May 23, 1910, from the State of Tennessee into the State of Georgia of a quantity of alleged lithia water which was misbranded. The product was labeled: "Whittle's Epsom-Lithia Water Bottled at Whittle Springs and Health resort in East Tennessee A soft, light water easy assimilated Can be taken on the weakest stomach. This water retains its medicinal properties unimpaired. In cases of Torpid Liver, Nervous Indigestion, Rheumatism, Gout, Diabetes, Bright's Disease, Cystitis, etc., this water will give positive and lasting results. Correspondence solicited. Address Whittle Springs Company, Whittle Springs, East Tennessee, U. S. A." The label bore the following analysis: Gr. per gal. Magnesium Sulphate, 58.29; Aluminum Sulphate, 1.388; Iron Sulphate, 1.44; Manganese Sulphate, trace; Calcium Carbonate, 32.904; Calcium Sulphate, 13.765; Lime Phosphate, trace; Potassium Sulphate, 2.163; Sodium Sulphate, 2.071; Sodium Chloride, .961; Sodium Nitrate, trace; Lithium Sulphate, .229; Silicate, .758; Total, 113.850.

Analysis by the Bureau of Chemistry of the United States Department of Agriculture showed said analysis to be incorrect, and that said water did not contain enough lithia to be designated a lithia water, nor were the ingredients such as to justify the therapeutic claims made for said water. Misbranding was alleged because of the false and misleading statements on the label in the following respects: The constituent elements of said product were not such as to justify the claims made on the label as to the therapeutic efficacy and the product only contained 0.12 part per million of lithium, an

amount insufficient to entitle it to be classified as lithia water; because the label gives what purports to be an authentic analysis of the constituent elements of the product, which analysis is incorrect and misleading; because the words on the label "Epsom-Lithia Water" convey to the public that the product contains a sufficient amount of lithium to produce a therapeutic effect to be expected from water containing an appreciable amount of lithia, when, in fact, it contains but a very slight amount of lithia; and further in that the statement appearing on the label, to wit: "In cases of Torpid Liver, Nervous Indigestion, Rheumatism, Gout, Diabetes, Bright's Disease, Cystitis, etc., this water will give positive and lasting results", is false and misleading, as the correct analysis does not show the presence of ingredients possessing therapeutic properties adequate to effect either positive or lasting results in any of the diseases mentioned.

On June 3, 1911, the defendant corporation pleaded guilty and was fined \$10 and costs. The following order was entered: "Came the United States Attorney and came also the Whittle Springs Co. and W. H. Whittle, and for plea to the information filed against them in this cause say they are guilty in manner and form as charged therein. Whereupon it is considered and adjudged by the court that for their offense the said defendant Whittle Springs Company pay a fine of ten dollars and the costs of the cause, for which let execution issue. The U. S. Attorney not praying judgment against W. H. Whittle, this judgment of fine will not operate as to him. The amount of fine in this cause was fixed by the court at \$10 because it appeared to the court that the default of the defendants constituting a violation of the law was due to their reliance upon the certificate of two chemists and their belief in the correctness of the analyses of said chemists, and because it appeared to the court that since the information was filed herein, the defendants have complied with the requirements of the government in the branding of the water, and said default was not due to any deliberate or intentional violation of or wanton neglect of the provisions of the statute."

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., September 27, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1140.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF TATE SPRING NATURAL MINERAL WATER.

On April 19, 1911, the United States Attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Tate Spring Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about June 6, 1910, from the State of Tennessee into the State of Georgia of a quantity of mineral water which was adulterated and misbranded. The product was labeled: "Tate Spring Natural Mineral Water. East Tenn. The Carlsbad of America. Cures indigestion, dyspepsia, and all liver, kidney and bowel and malarial troubles. Especially recommended in the cure of dyspepsia, malaria, skin diseases, stomach, liver, bowel and kidney diseases. Analysis made in Mar. 1872 by T. S. Antezell, M. D., Prof. of Chemistry in National Med. Coll. and Chemist to U. S. Dept. of Agriculture. The volume and temperature of water are the same at all seasons and under all circumstances." The label bore the following analysis: Sulphuric acid, 130.37; lime, 81.12; magnesia, 10.99; iron peroxide, 1.00; manganese perox., traces; potash and soda, 5.90; chloride, 32.63; silica soluble, .27; phosphoric acid, .71; carbonic acid, 9.90; nitric, .02; total grs. in 1 gal., 272.91. Sulphate lime, 160.66; sulphate magnesia, 32.91; sulphate soda, 8.50; sulphate potash, 1.54, chloride sodium, 40.27; chloride iron, 2.99; chloride manganese, .62; iodide of soda, traces; potash lime, 1.14; carbonate lime, 21.56; silica, 2.70; nitric acid, .02; total grs. in 1 gal., 272.91.

Analyses of four of six samples of said product by the Bureau of Chemistry of the United States Department of Agriculture showed *B. coli* in 1 cc quantities, and in one instance in 0.1 cc; that the analysis appearing on the label was not correct, and that said water did not contain ingredients that would justify the therapeutic claims made for it. Adulteration was alleged because said product consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance. Misbranding was alleged because of the

false and misleading statements as to the therapeutic or curative properties claimed on the label for said water, when, in fact, the said water was without therapeutic efficacy for the disease mentioned in the label, and because the analysis stated on the label was incorrect.

On June 3, 1911, the defendant pleaded guilty and was fined \$50 and costs. The following order was entered: "Came the United States Attorney and came also the Tate Spring Co. and Oscar R. Tomlinson, and for plea to the information filed against them in this cause say they are guilty in manner and form as charged therein. Whereupon it is considered and adjudged by the court that for their said offense the said defendant Tate Spring Company pay a fine of Fifty-Dollars (\$50.00) and all the costs of the cause for which let execution issue. The U. S. Attorney not praying judgment against the individual defendant, Oscar R. Tomlinson, this judgment of fine will not operate as to him. The amount of the fine in this cause was fixed by the court at \$50, because it appeared to the court that the sanitary conditions surrounding the spring of the defendant company, causing the adulteration which constituted the default of said defendant in violation of the law, have been remedied by said defendant and that the analysis of the water of said spring shipped by them as alleged in the information, has been corrected to meet the requirements of the government and that their said default was not due to any deliberate or intentional violation of or wanton neglect of the provisions of the statute."

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1141.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF PEERLESS CATTLE FEED.

On August 22, 1910, the United States Attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against J. Allen Smith & Co. (Inc.), a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about April 13, 1909, from the State of Tennessee into the State of Virginia of a quantity of so-called "Cattle Feed", which was misbranded. The said product was labeled as follows: "100 Pounds Peerless Feed Manufactured by J. Allen Smith & Co., Knoxville, Tenn. Guaranteed analysis: Protein (Minimum) 15.0%, Starch and Sugar 58.0%, Fat (Minimum) 4.0%, Fiber (Maximum) 7.0% Composed of Wheat Bran, Wheat Shorts, Corn Meal, Corn Bran, Corn Screenings, Wheat Screenings, North Carolina Inspection Tag."

Analysis of samples of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: Moisture, 12.12 per cent; ether extract, 4.00 per cent; protein, 11.25 per cent; crude fiber, 4.23 per cent; invert sugar, 0.00 per cent; sucrose, 2.21 per cent; starch, 47.48; total sugars and starch, 49.69 per cent. Microchemical examination: Contains wheat and corn products, the wheat predominating. Misbranding was alleged for the reason that the percentages of protein and of sugar and starch, as stated on the label, were false, in that said percentages were much less than those stated, as shown by the aforesaid analysis.

On June 3, 1911, the defendant pleaded guilty and was fined \$10 and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1142.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF MIDDLINGS.

In April, 1911, the United States Attorney for the Eastern District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Model Mill Co. (Inc.), a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about August 9, 1910, from the State of Tennessee into the State of South Carolina of a quantity of middlings which was misbranded. The product was labeled: (On sack): "Model Mill Co., Incorporated. Rich Middlings—Johnson City, Tenn. Label Guaran. 75 Lbs. Rich Middlings." (On tag attached to bag): "Rich Middlings. Analysis: Protein 17.02, Fat 5.06, Fiber 5.02, Carbohydrates 60.00. Made from Wheat Middlings, Wheat Shorts, Wheat Bran, Wheat Screenings, Corn and Corn Bran. Manufactured and Guaranteed by Model Mill Company, Johnson City, Tennessee."

Analysis and examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: Moisture, 12.46 per cent; ether extract, 3.84 per cent; protein, 16.60 per cent; crude fiber, 6.77 per cent. Microchemical examination: Apparently wheat middlings. No corn found. Misbranding was alleged for the reason that the label represented the product to contain 5.06 fat and 5.02 fiber, when, in fact, it contained a lesser quantity of fat and a larger quantity of fiber, to wit, 3.84 fat and 6.77 fiber.

On June 3, 1911, the defendant pleaded guilty and was fined \$10 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1143.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF DESICCATED EGG.

On February 18, 1910, the United States Attorney for the Eastern District of Virginia, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one box of desiccated egg product found in the possession of the Adams Baking Co., at Norfolk, Va., which had been consigned by Crandall Pettee Co., of New York City.

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed it to contain enormous numbers of bacteria, many of which were of the gas-producing type. The libel alleged that the product after transportation from the State of New York into the State of Virginia remained in the original unbroken package and was adulterated in violation of the Food and Drugs Act of June 30, 1906, in that it consisted of a filthy and decomposed and putrid animal substance, and was, therefore, liable to seizure for confiscation.

On February 11, 1911, said case coming on for hearing, and no appearance having been made or answer filed, the court, on motion of the District Attorney, entered a decree adjudging the product adulterated as alleged in the libel and condemned and forfeited it to the United States and ordered its destruction forthwith by the marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1144.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHAMPAGNE.

On June 10, 1911, the United States Attorney for the Eastern District of Missouri, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying the condemnation and forfeiture of 16 cases of wine in the possession of John Bardenheier Wine & Liquor Co., St. Louis, Mo. The product was labeled: (On the end of each case) "Grand Vin Lafayette Champagne. The J. Bardenheier Wine & Liquor Co., Distributors, St. Louis, Mo." On the top of each case on a paper label are the words in large type: "From the Diamond Wine Co., Inc. Producers of Gold Top Champagne, Sandusky, Ohio." and in smaller and inconspicuous type on said label are the words "Extra Dry America's Best Vintage," and on one side of said case are stenciled the words: "Champagne Select and Dry." On bottles: "Guaranteed by Serial No. 2161 to comply with the National Pure Food Law. Trade Mark Grand Vin Lafayette Champagne Extra Dry" and on neck label as follows: "Extra Dry," and on each of said bottles a metal neck cap which bears in large type the words "Extra Dry," and directly over the cork the words "Superior Quality. Thoroughly Matured."

Analysis of a sample of this product by the Bureau of Chemistry of the United States Department of Agriculture showed that the product was not a champagne and did not have the characteristics of champagne such as is produced in France; that it was of domestic origin. The libel alleged that the wine, after transportation from the State of Ohio into the State of Missouri, remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the reason that said wine did not have the characteristics of champagne such as is produced in France, that it was of domestic origin, and was not entitled to be called champagne, and that the statements upon the labels, to wit: "Grand Vin Lafayette Champagne" and "Champagne Select

and Dry", and the statements on the labels on the bottles, to wit: "Grand Vin Lafayette Champagne Extra Dry" and "Extra Dry" and "Superior Quality Thoroughly Matured" were false and misleading and would mislead the purchaser thereof to believe that said product was of foreign origin, when, in fact, it was made and produced in the United States. Misbranding was also further alleged because said product was offered for sale under the distinctive name of another article, to wit, champagne.

On July 8, 1911, the cause coming on to be heard, and no person appearing as claimant, and it appearing from the writ of the marshal that he had seized 10 of the 16 cases of said wine, the court entered a decree finding the said wine to be misbranded as alleged in the libel and condemning and forfeiting the same to the United States, and ordered its destruction by the marshal.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1145.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF MACARONI.

On October 10, 1910, the United States Attorney for the Western District of Pennsylvania, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 325 boxes of macaroni found on the premises of the Pittsburgh Terminal Warehouse and Transfer Co., Pittsburgh, Pa. The macaroni was labeled: "Grande Pastificio Elettrico—Stella Doro—Produzione Mille Casse Al Giorno—Ditalini—Extra-Fine—Stabilito nel 1886—Guaranteed under the Food and Drugs Act, June 30, 1906, U. S. Serial No. 5179." In addition the labels bore pictorial representations of stars, a quarter moon, and medals of award, the entire arrangement being such as to convey the impression that the product was of foreign manufacture. The only variance in the labels was that they bore the names "Ditalini", "Ditali" and "Zitti", according to the different styles.

The libel alleged that the macaroni after transportation from Ohio into the State of Pennsylvania remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, because it was so labeled or branded as to deceive or mislead the purchaser in that it purported the product to be of foreign manufacture when, in fact, it was manufactured by the Youngstown Manufacturing Co., Youngstown, Ohio, and was therefore liable to seizure for confiscation.

On July 5, 1911, the owner of the goods appeared in court, and, admitting the statement of facts as set forth in the libel and agreeing to an order of court that the goods might be declared forfeited and condemned, asked permission for the release of said goods upon his giving bond in compliance with the terms of section 10 of the aforesaid act, whereupon the court, sustaining the charge in the libel, entered a decree condemning and confiscating the product to the United States, with the proviso that upon payment of the costs and the execution of a bond by the claimant in the sum of \$500, as provided in section 10 of the aforesaid act, the goods seized be released and delivered to the owner.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 28, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1146.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING AND ADULTERATION OF OATS.

On July 2, 1910, the United States Attorney for the Southern District of Mississippi, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel, praying condemnation and forfeiture of 200 sacks of oats in the possession of Joseph L. Wells, Meridian, Miss. The sacks containing such product bore no label, but the consignment was invoiced as "200 sacks, 160 Lbs., No. 3 White Oats—1,000 bushels." and were understood to be of that grade by the purchaser.

Examination of a sample taken from this consignment was made by the Bureau of Chemistry of the United States Department of Agriculture and showed the same to be composed of the following ingredients in the proportions indicated: Oats, 66 per cent; barley, 25 per cent; corn, 7 per cent; seeds and stems, 2 per cent. The libel alleged that the oats, after transportation from Tennessee into Mississippi, remained in the original unbroken packages and were adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and were therefore liable to seizure for confiscation. Adulteration was alleged for the reason that a substance, to wit, barley, corn, seeds, and stems, had been mixed and packed with the product so as to reduce, lower, or injuriously affect its quality and strength and had been substituted wholly or in part therefor. Misbranding was alleged for the reason that the product was invoiced and sold under the distinctive name of another article, to wit, No. 3 white oats, when in fact it contained a heavy admixture of barley, corn, and other ingredients and was not No. 3 white oats.

On June 9, 1911, the case coming on for hearing the court entered a decree condemning and forfeiting the said product to the United States for the causes set forth in said libel, but with the proviso that upon the payment of the costs and the execution of a bond in the sum of \$200 by the said Joseph L. Wells, conditioned that said oats shall not be again sold contrary to law, that the 30 sacks of oats seized in said procedure be released and delivered to the said Joseph L. Wells.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 29, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1147.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF LEMON FLAVORING.

On April 11, 1911, the United States Attorney for the Western District of Michigan, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Charles I. Cook, trading under the firm name of Carpenter-Cook Co., Menominee, Mich., alleging shipment by him, in violation of the Food and Drugs Act, on or about January 26, 1909, from the State of Michigan into the State of Wisconsin, of a quantity of an article purporting to be lemon flavoring, which was adulterated and misbranded. The product was labeled: "M. R. P., Lemon substitute. A pure flavoring for ice creams, jellies, custards, cakes, etc., Prepared by the Michigan Refining and Preserving Company. Menominee, Mich."

Analysis of samples of said product by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

Alcohol, volume per cent.....	20.32
Lemon oil by precipitation.....	0.00
Lemon oil by polarization.....	0.00
Citral005
Solids075
Sucrose	Absent
Color	Coal tar dye

Adulteration was alleged for the reason that a substance, to wit, a dilute solution of alcohol, containing practically a negligible quantity of some of the ingredients of lemon oil, artificially colored, had been substituted wholly or in part for the article, and that the product had been colored in a manner whereby its inferiority was concealed. Misbranding was alleged for the reason that the word "substitute" appears on the label in such small letters that the general effect of the label is to convey the impression to the purchaser that the product is a lemon flavoring or extract of extraordinary strength and purity, when, in fact, it contained none of the essential oil of lemon, but was

a fraudulent substitute therefor, prepared from a combination of chemicals artificially colored in imitation of genuine lemon extract containing alcohol, citral, solids, and a coal-tar dye.

On June 7, 1911, the defendant entered a plea of guilty and was fined \$50.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 29, 1911.*

1147



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1148.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHEESES.

At a stated term of the District Court of the United States for the Northern District of California, on the first Monday in November, 1909, the grand jurors of the United States within and for said district returned two indictments against Wieland Bros., a corporation in said district, charging shipments by it, on July 15, 1909, and June 29, 1909, in violation of the Food and Drugs Act of June 30, 1906, from the State of California into the State of Washington of a number of cheeses which were misbranded. The shipments made on or about July 15, 1909, consisted of 20 cases and half cases labeled, respectively, as follows: (On case) "Circle Brand French Cream Cheese. Neufchatel. Manufactured by the French Cheese Factory at Novato, Marin County, California, Wieland Bros., 311-315 Davis Street, San Francisco, California, Sole Agents." (Stamped on each cheese) "Neufchatel, Circle Brand Cream Cheese, Strictly Pure." (On case in large letters): "Circle Brand, French Cream Cheese, Fromage de Brie. (In small letters) Manufactured by the Novato French Cheese Factory at Novato, Marin County, California." Each case and cheese comprising the shipment made on or about June 29, 1909, was labeled as follows: "Fromage de Camembert, Circle Brand."

The indictments were based upon reports of the Secretary of Agriculture showing, from examinations by the Bureau of Chemistry, United States Department of Agriculture, of samples taken from each of said consignments, that the aforesaid products were of domestic manufacture. Misbranding was charged in said indictments for the reason that the above labels conveyed impressions that the said products were of foreign manufacture, when, in fact, they were of domestic manufacture, and the statements on the labels were, therefore, false and misleading. Misbranding was alleged further because the so-called "Neufchatel cheeses" and the "Fromage de Brie" were not cream cheeses as stated on the labels.

On March 8, 1910, the defendant corporation filed demurrer to each of said indictments, which demurrers were overruled, and the defendant thereupon entered a plea of not guilty. The cases coming on for trial before a jury, on April 5, 1911, the defendant corporation was found guilty, as charged in the indictments, whereupon the court imposed two fines against the defendant of \$50 each.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 29, 1911.*

1148



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1149.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF CHAMPAGNE.

On or about November 23, 1910, the United States Attorney for the District of Minnesota, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 19 cases of wine in the possession of Aaron Herz. Each of 8 cases of said wine was labeled as follows: "This side up. Sparkling Sec. P. 24-1/2 bottles sparkling wine, A. Herz, St. Paul, Minn." Each of said bottles contained in said cases was labeled: "Extra Dry Sparkling Sec. Ph. de Sanvers Champagne. Produced in New York and guaranteed under National Food Law, Serial No. 11055." Eleven cases of said wine were labeled as follows: "This side up, Royal Cabinet, 24-1/2 bottles Sparkling Wine, A. Herz, St. Paul, Minn."; and each of the bottles contained in said eleven cases was labeled as follows: "Extra Dry Royal Cabinet Sparkling Wine, Produced in New York and guaranteed under the food and drugs act, June 30, 1906. Serial No. 11055."

Analyses of samples taken from these shipments, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the products to be artificially carbonated. The libel alleged that said wine, after shipment by Ripin & Co., of New York City, from the State of New York into the State of Minnesota, remained in the original unbroken packages, and that the packages of wine were misbranded in that they contained artificially carbonated products offered for sale and sold in imitation of, and under the distinctive name of, "Champagne" and "Sparkling Wine", respectively, and were labeled so as to deceive and mislead the purchaser. Adulteration was alleged because artificially carbonated products had been substituted wholly or in part for "Champagne" and "Sparkling Wine".

On April 24, 1911, no one having appeared as claimant, the court, on motion of the United States Attorney, decreed the condemnation of said wine as being adulterated and misbranded, as alleged in the libel, and forfeiture of the same to the United States, and ordered the marshal for said district to destroy it.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 29, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1150.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VANILLA EXTRACT.

On March 25, 1911, the United States Attorney for the District of New Jersey, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one 5-gallon package of a product purporting to be vanilla extract in the possession of John K. Psychos.

Analysis of samples of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the following results: Vanillin 0.80 per cent, coumarin 0.10 per cent, caramel present. The container was labeled: "XXXX Vanilla." The libel alleged that the said product, after shipment by the Manhattan Importing Co., of Cleveland, Ohio, from Ohio into New Jersey, remained in the original unbroken package and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was, therefore, liable to seizure for confiscation. Adulteration was alleged for the reasons that the substance was not pure vanilla extract but was a product containing vanillin and coumarin, which had been mixed and packed with and substituted for vanilla extract in such a manner as to reduce and lower and injuriously affect its quality and strength, and because the product was colored with caramel for the purpose of concealing its inferiority. Misbranding was alleged because the product was sold under the distinctive name of another article, to wit, vanilla, when in fact it was not vanilla, and the statement on the label was therefore false and misleading.

On April 20, 1911, the court found the said product to be adulterated and misbranded, as alleged in the libel, and that the United States was entitled to a decree of condemnation, as prayed for, and entered a decree condemning and forfeiting the goods to the United States and ordering their destruction by the marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 29, 1911.*

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THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

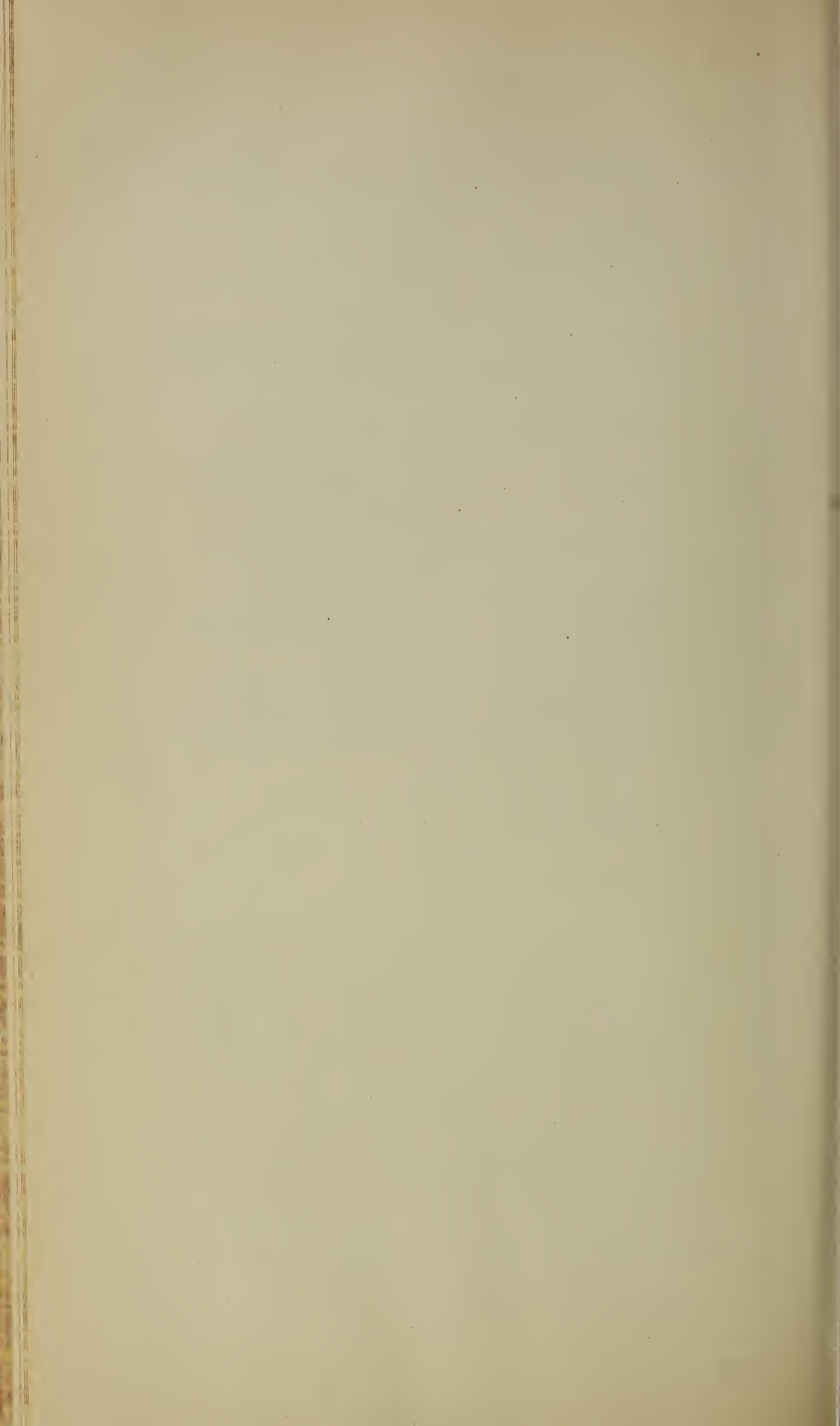
JOHN BURNET

THE HISTORY OF THE REIGN OF CHARLES THE FIRST, BY JOHN BURNET, A BISHOP OF THE CHURCH OF ENGLAND. IN TWO VOLUMES. THE FIRST VOLUME. LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE SECOND VOLUME. LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE HISTORY OF THE REIGN OF CHARLES THE FIRST, BY JOHN BURNET, A BISHOP OF THE CHURCH OF ENGLAND. IN TWO VOLUMES. THE FIRST VOLUME. LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

THE SECOND VOLUME. LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1151.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF VINEGAR.

On January 3, 1911, the United States Attorney for the Western District of Missouri, acting upon a report from the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 80 barrels of cider vinegar in the possession of the Security Storage Warehouse Co. in Kansas City, Mo. The vinegar was labeled: "A. P. Callahan & Company, 6% Cider Vinegar 52 Chicago, Ill."

Analysis of a sample of said vinegar by the Bureau of Chemistry of the United States Department of Agriculture showed solids 1.54 per cent, reducing sugar 4 per cent, ash 0.26 per cent, alkalinity of ash 23.8 per cent, acid 6.23 per cent. The libel alleged that the vinegar, after shipment by A. P. Callahan & Co. from the State of Illinois into the State of Missouri, remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged for the reason that a substance, to wit, acetic acid or distilled vinegar, had been substituted wholly or in part for the vinegar.

On May 24, 1911, the case coming on for hearing and no person having appeared as claimant, the court entered a decree that the libel be taken pro confesso for default of answer thereto and condemning and forfeiting said 80 barrels of vinegar to the United States and ordered that each of said barrels be properly branded by indorsing on the labels of said barrels the word "Imitation" three times as large in size as the words "Cider vinegar" appearing upon said labels, and that the marshal, after having so marked and branded said vinegar, should sell the same at public auction to the highest bidder for cash, which order was executed by the sale of the vinegar at public auction on June 10, 1911, for \$100.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *September 30, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1152.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF BITTERS.

On June 8, 1911, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed information in the Circuit Court of the United States for said district against the Italian Importing Co., importers, alleging the shipment by it, in violation of the Food and Drugs Act, on or about March 15, 1910, from the State of New York into the State of Washington of a quantity of bitters¹ "Fernet Milano" which was misbranded. The product was labeled: "Fernet Milano. Vermifuge and Febrifuge. The only liquor that possesses the true and genuine process recognized and approved by various professors. The only Fernet because of being prepared in altogether a special manner. Has all the qualities recognized in such kinds of liquor and has the effect of preventing and causing to cease disturbances owing to sea voyages. No one then can fail to consider it as indispensable for a good voyage. It may be taken at any time in a glass of water or mixed in any kind of liquor or drink. It should be taken as soon as the first symptoms of vomiting manifest themselves. To prevent counterfeits every label will bear the signature 'Fernet Milano', and the capsule as fastened to the neck of the bottle with another label bearing the same signature." (Supplementary label on back of bottle) "The original contents of this package constitute a compound. Compounded and Bottled in New York, N. Y. Guaranteed under the Food and Drugs Act, June 30, 1906. U. S. Serial No. 19441."

¹ Translated from Italian label.

Analysis of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture gave the following results:

Sp. gr. (15.6° C.).....	0.9670
	Grams per 100 cc.
Extract by drying.....	1.09
Non-sugar solids.....	.87
Ash.....	.06
Alcohol by volume (per cent).....	33.12
Methyl alcohol.....	None.
Acid as acetic.....	.01
Reducing sugar as invert.....	.22
Sucrose (Clerget).....	None.
Direct polarization 21° C. (26 grams).....(° V.)..	0.8
Invert polarization 21° C.....(° V.)..	0.6

Color, very dark brown, due mainly to caramel. Dealcoholized product shows considerable residue and odor of medicinal herbs.

Misbranding was alleged for the reason that the statement "Fernet Milano" is misleading and deceptive as it conveys the impression that this product is of foreign manufacture when in fact it is an article of domestic manufacture made in New York City, and further, because the statement "has the effect of preventing and causing to cease disturbances owing to sea voyages" is misleading and deceptive as it conveys the impression that this product possesses therapeutic properties capable of preventing seasickness, when it possesses no such therapeutic value, and for the further reason that the analysis showed the product to contain 33.12 per cent alcohol of which no statement is made on the package or label.

On July 7, 1911, the defendant corporation pleaded guilty and was fined \$25.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., September 30, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1153.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF PAPRIKA.

On January 14, 1911, the United States Attorney for the District of Maryland, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against McCormick & Co., a corporation, of Baltimore, Md., alleging shipment by it, in violation of the Food and Drugs Act, on or about March 11, 1910, from the State of Maryland into the State of Pennsylvania, of a quantity of so-called pure paprika, which was misbranded. The product was labeled: On the end of the container: "6 lbs. net Pure Paprika No. 7117. Packed by McCormick & Co., Importers & Grinders Pure Spices, Baltimore, Md." On two sides it was labeled: "Bee & Banquet Brands Pure Food Products, Teas, Spices & Extracts. Awarded Gold Medal, Jamestown Exposition."

Analysis of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed the following results:

	Per cent.
Loss at temperature of boiling water in air.....	7.52
Ash, total	8.20
Ash, insoluble in 10 per cent HCl.....	.97
Ether extract, total (continuous extraction, 16 hours).....	20.10
Ether extract, nonvolatile (Winton method).....	18.45
Iodin number of nonvolatile ether extract.....	114.31
Nitrogen.....	2.17
Protein (N.×6.25).....	13.60
Crude fiber	18.77
Color: No coal tar color detected.	
Microscope: No adulteration detected.	
Analysis indicates that a foreign oil (probably olive) to the extent of 7 to 10 per cent has been added.	

Misbranding was alleged for the reason that said product was represented on the label to be pure paprika, which statement was false and misleading and calculated to deceive the purchaser because the

product was not pure paprika but contained a quantity of added foreign oil.

On June 14, 1911, the defendant pleaded nolo contendere and was fined 50 cents.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 3, 1911.*

1153



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1341.

SUPPLEMENTARY TO NOTICE OF JUDGMENT NO. 1153.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF PAPRIKA.

In Notice of Judgment No. 1153 report was made of the judgment of the District Court of the United States for the District of Maryland, entered in the case of the United States *v.* McCormick & Co. The information filed against the defendant corporation alleged the shipment, on or about March 11, 1910, from the State of Maryland into the State of Pennsylvania, in violation of the Food and Drugs Act, of a quantity of so-called pure paprika, which was misbranded. This Department had not been informed, when Notice of Judgment No. 1153 was issued, that the court accompanied the judgment by a statement setting forth its reasons for imposing a fine of 50 cents. The statement of the court, communicated by the United States attorney, under date of November 20, 1911, which is self-explanatory, was as follows:

The Court, being satisfied in this case that the failure to designate on the label the fact that the paprika was ground in oil was a mere omission of a subordinate employee, contrary to the instructions of the defendant, imposes a fine of fifty cents and requests that this statement be embodied in any publication of the sentence which may be made by the Department of Agriculture.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *November 28, 1911.*

UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF THE SECRETARY

REPORT OF THE SECRETARY

FOR THE YEAR 1904

IN RESPONSE TO A RESOLUTION OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE HOUSE OF REPRESENTATIVES

The following report of the Secretary of the United States Department of Agriculture, for the year 1904, is submitted to the House of Representatives in response to a resolution of the House of Representatives, passed June 15, 1904, relating to the report of the Secretary of the Department of Agriculture, for the year 1903. The report of the Secretary for the year 1903, was submitted to the House of Representatives on June 15, 1904, and was published by the Government Printing Office on June 15, 1904. The report of the Secretary for the year 1904, is submitted to the House of Representatives on June 15, 1905, and is published by the Government Printing Office on June 15, 1905. The report of the Secretary for the year 1904, is submitted to the House of Representatives in response to a resolution of the House of Representatives, passed June 15, 1904, relating to the report of the Secretary of the Department of Agriculture, for the year 1903. The report of the Secretary for the year 1903, was submitted to the House of Representatives on June 15, 1904, and was published by the Government Printing Office on June 15, 1904. The report of the Secretary for the year 1904, is submitted to the House of Representatives on June 15, 1905, and is published by the Government Printing Office on June 15, 1905.

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W. L. RORER,
Secretary of Agriculture.

WASHINGTON, D. C., JUNE 15, 1905.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1154.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF BLUEBERRIES.

On March 13, 1909, the United States Attorney for the District of Utah, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 54 cases of blueberries in the possession of W. S. Henderson. The product was labeled: "5 Doz., 2 lb., Gold Label, Maine Blueberries, Edward T. Russell & Co., Boston."

Examination of samples taken from said consignment by the Bureau of Chemistry, United States Department of Agriculture, showed the individual cans containing the said blueberries to average 24 ounces each. The libel alleged that the blueberries, after shipment by Edward T. Russell & Co. from Massachusetts into Utah, remained in the original unbroken packages, and were misbranded in violation of the Food and Drugs Act of June 30, 1906, because the cans containing said blueberries represented the contents as 2 pounds, when, in fact, they were short measure, showing an average content of 24 ounces each; and that said product was, therefore, liable to seizure for confiscation.

On April 1, 1909, W. S. Henderson, claimant, filed answer to said libel. The court found the product to be misbranded, as alleged in said libel, and that the United States was entitled to a decree of condemnation, and accordingly, on said date, a decree was entered condemning and forfeiting the goods to the United States; with a proviso that the same should be released to said W. S. Henderson upon the payment by him of all costs of the proceedings and the execution of a bond in the sum of \$500 satisfactory to the court, that the said goods would not be sold or otherwise disposed of contrary to the provisions of law, and the said W. S. Henderson having paid the costs and executed bond as required by said decree, the said product was thereupon released to the said W. S. Henderson.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 3, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1155.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF OLIVE OIL.

At a stated term of the Circuit Court of the United States for the Southern District of New York, on the first Monday of May, 1910, the United States Attorney for the Southern District of New York, in the Second Circuit, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Francesco Corrao, doing business under the firm name of Francesco Corrao & Co., alleging shipment by him, in violation of the Food and Drugs Act, on or about January 17, 1910, from the State of New York into the State of Massachusetts of a quantity of olive oil which was adulterated and misbranded. Said product was labeled: "Universal Brand Olio uso famiglie, Pure Italian Olive Oil, compounded with salad oil, packed by Francesco Corrao, N. Y."

Analyses by the Bureau of Chemistry, United States Department of Agriculture, of samples of this product, showed the following results: Specific gravity at 15.6° C./15.6° C., 0.9214; index of refraction at 25° C., 1.4705; iodine number (Hanus), 107.5; Halphen test, positive; peanut oil test, negative; sesame oil test, negative; color appears to be di methyl amino azo benzene. Adulteration was alleged because the article consisted mainly of cottonseed oil artificially colored with coal-tar dye so as to conceal its inferiority. Misbranding was alleged for the reason that the product was represented as a pure Italian olive oil, which statement was false and misleading and calculated to deceive and mislead the purchaser, because, in fact, the product was not a pure olive oil, but consisted mainly of cottonseed oil.

On June 24, 1910, the defendant pleaded guilty and was sentenced to pay a fine of \$25.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 4, 1911.*

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO

THE UNIVERSITY OF CHICAGO

The University of Chicago is a private research university in Chicago, Illinois. It was founded in 1837 as the first American university to be organized on the European model, with a focus on research and scholarship. The university has since grown into one of the leading academic institutions in the world, with a strong emphasis on interdisciplinary research and a commitment to excellence in teaching and learning. The University of Chicago is known for its rigorous academic standards and its commitment to the advancement of knowledge in a wide range of fields, from the natural sciences to the humanities. The university's faculty includes many of the most prominent scholars in their respective fields, and its students are known for their intellectual curiosity and dedication to their studies. The University of Chicago is also known for its commitment to social responsibility and its efforts to address the challenges of the world. The university has a long history of involvement in social and environmental issues, and it continues to be a leader in these areas today. The University of Chicago is a place where the pursuit of knowledge is always at the forefront, and where the commitment to excellence is never-ending.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1156.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF FRUIT SYRUP.

On June 20, 1911, the United States Attorney for the Western District of Washington, acting upon the report by the Secretary of Agriculture, filed information, which was subsequently amended on June 28, 1911, in the District Court of the United States for said district, against Stewart & Holmes Drug Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act of June 30, 1906, on March 18, 1910, from the State of Washington into the State of Oregon of quantities of fruit syrups which were misbranded. The products were labeled, respectively: "Purity Brand Concentrated Fruit Syrup. Serial No. 1619. Guaranteed under the Food and Drugs Act, June 30/06. Raspberry. Contains 1-10 of 1% Sodium Benzoate. Directions: Mix one part fruit syrup with three parts simple syrup. Prepared by Stewart & Holmes Drug Co., Seattle,"; and: "Purity Brand Concentrated Fruit Syrup. Serial No. 1619. Guaranteed under the Food and Drugs Act, June 30/06. Blood Orange. Contains one-tenth of 1 per cent Sodium Benzoate. Directions: Mix one part fruit syrup with three parts simple syrup. Prepared by Stewart & Holmes Drug Co., Seattle."

Samples of these products, numbered for purposes of identification, I. S. No. 10832-c and I. S. No. 10833-c, respectively, were analyzed by the Bureau of Chemistry of the United States Department of Agriculture, with the following results: (I. S. No. 10832-c) Solids, 63.11 per cent; nonsugar solids, 0.60 per cent; sucrose, Clerget, 21.41 per cent; sucrose by copper, 22.42 per cent; reducing sugars as invert before inversion, 41.10 per cent; polarization direct temperature at

20° C., +10.0; polarization invert temperature at 20° C., -18.4; ash, 0.20 per cent; color, red coal tar; reacts similar to Ponceau 3 R; benzoate of soda, 0.12 per cent. (I. S. No. 10833-c) Solids, 65.86 per cent; nonsugar solids, 0.22 per cent; sucrose, Clerget, 63.77 per cent; sucrose, by copper, 63.39 per cent; reducing sugars as invert before inversion, 1.87 per cent; polarization direct temperature at 20° C., +61.8; polarization invert temperature at 20° C., -22.8; ash 0.04 per cent; ether extract, 0.04 per cent; benzoate of soda, absent; color, red coal tar; reacts similar to Ponceau 3 R; odor and taste of oil of coriander pronounced; organic acids, absent. Misbranding was alleged in the information as to the first mentioned product for the reason that it was represented in the label as a concentrated raspberry fruit syrup, when, in fact, it was an artificially colored sugar syrup containing but little raspberry juice, and the statements on the label were, therefore, false and misleading. Misbranding was alleged in the information against the second named product for the reason that the label represented it to be a concentrated blood orange fruit syrup, when, in fact, it was a sugar syrup, artificially colored, containing but little blood orange juice, and the article was, therefore, misbranded so as to deceive and mislead the purchaser.

On June 22, 1911, the defendant entered a plea of nolo contendere, and was fined \$25 and costs, taxed at \$25.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 4, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1157.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF HEADACHE POWDERS.

One June 7, 1911, the United States Attorney for the Western District of Michigan, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Peck-Johnson Co., alleging shipment by said company, in violation of the Food and Drugs Act, on or about February 8, 1909, from the State of Michigan into the State of Louisiana of a quantity of headache powders which were misbranded. The powders were labeled: "Peck's Headache Powders. Acetanilid 278 grains per ounce. They relieve nearly every form of headache, and contain no opium or other narcotics, and do not unpleasantly affect the nervous system. Directions. Throw a powder on the tongue and swallow with a little water. Repeat in 30 minutes if necessary. Price 25 cents. Peck Bros. Co., Grand Rapids, Mich." The label on the wrapper was as follows: "Peck's Headache Powders. Acetanilid 278 grains per ounce. Will relieve all kinds of Headache, whether arising from excesses of any kind, or a disordered stomach. Will relieve any kind of headache. We will refund the money if they fail to do so. Guaranteed under the Food and Drugs Act of June 30, 1906. Guaranty No. 614." A circular accompanying the product contained the following statements: "Will cure every form of headache"; "The system does not become habituated to the use of them."; and "Contains no opium or other narcotics."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of samples of said powders showed them to consist of acetanilid, caffeine, and sodium bicarbonate. Misbranding was alleged for the reason that the statements appearing on the

label: "Will cure every form of headache," "The system does not become habituated to the use of them," and "Contains no opium or other narcotics," are false and misleading because the product would not cure every form of headache, and contained a habit-forming drug, and a narcotic, to wit, caffeine.¹

On March 18, 1911, the defendant pleaded guilty and was fined \$25.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 5, 1911.*

¹The case as certified to the United States Attorney charged that the acetanilid present in the drug was a narcotic, and did not charge that the caffeine was a narcotic.



Issued December 5, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1158.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VANILLA FLAVOR.

On May 12, 1911, the United States Attorney for the Eastern District of Louisiana, acting upon the report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Pan American Manufacturing Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about July 25, 1910, from the State of Louisiana into the Territory of New Mexico of a quantity of vanilla flavor which was adulterated and misbranded. The product was labeled: "High Power Vanilla Flavor, Pan American Mfg. Co. 3,000-3,016 Royal Street, New Orleans, La."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of samples of this product showed the following results: Solids 54.4 per cent; ash 0.62 per cent; vanillin 0.101 per cent; coumarin 0.152 per cent; vanilla resins, qualitative, none; color, natural. Adulteration was alleged for the reason that a preparation containing an extract of tonka bean had been mixed and packed with the said product so as to reduce and lower and injuriously affect its quality and strength, and had been substituted wholly or in part for the genuine vanilla extract. Misbranding was alleged for the reason that said product was represented as a vanilla flavor, when, in fact, it was a preparation consisting essentially of tonka extract, which said representation was, therefore, false and misleading.

On June 15, 1911, the defendant company pleaded guilty and was fined \$10 and costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 5, 1911.*

THE UNIVERSITY OF CHICAGO

CHICAGO, ILL., U.S.A.

1911

CHICAGO, ILL., U.S.A.

THE UNIVERSITY OF CHICAGO

The University of Chicago is a private research university in Chicago, Illinois. It was founded in 1837 as the first American university to be organized on the basis of the European model. The university is known for its commitment to academic excellence and its role in the development of modern higher education in the United States. It has a long history of producing influential scholars and leaders in various fields of study.

The university's curriculum is designed to provide students with a broad and deep understanding of the liberal arts and sciences. It emphasizes critical thinking, research, and intellectual inquiry. The university has a strong tradition of interdisciplinary collaboration and has been at the forefront of many important scientific and cultural advancements. Its commitment to academic freedom and open inquiry has made it a leading institution in the world.

The University of Chicago is a member of the Association of American Universities and is ranked among the top universities in the world. It continues to play a vital role in the advancement of knowledge and the education of future generations.

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1159.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VINEGAR.

On or about January 31, 1911, the United States Attorney for the District of Minnesota, acting upon the report of the Secretary of Agriculture, filed a libel for seizure and condemnation in the District Court of the United States for said district against 100 barrels of vinegar, in the possession of Barrett & Barrett (Inc.), St. Paul, Minn., alleging that the product was transported, sold, and consigned, on the 19th day of November, 1910, from the city of Chicago, by Spielman Bros. Co., manufacturers, to Barrett & Barrett, St. Paul, Minn., and was within the jurisdiction of the court, in the original unbroken packages. Each of the said barrels was labeled: "Guaranteed Cider Vinegar, 6 per centum. Spielman Bros. Co., mfgs., 7916 B St., St. Paul, Minn."

Analyses of samples taken from this shipment showed the following results:

	Grams per 100 cc.
Alcohol (per cent by volume).....	0.28
Glycerol.....	.14
Solids.....	2.55
Nonsugar solids.....	1.53
Reducing sugar invert.....	1.02
Per cent sugar in solids.....	40.0
Polarization direct, temperature 20° C.....	-0.6
Ash.....	.47
Ash, insoluble in water.....	.034
Alkalinity of soluble ash (cc N/10 acid 100 cc).....	52.4
Soluble phosphoric acid (mgs per 100 cc).....	24.7
Insoluble phosphoric acid (mgs per 100 cc).....	8.1
Acid, as acetic.....	5.90
Fixed acid, as malic.....	.017
Lead precipitate.....	heavy
Color, degrees, brewer's scale (0.5 in. cell).....	7.5
Color removed by fuller's earth.....	per cent.. 45
Total phosphoric acid in ash.....	32.8
Alcohol precipitate.....	.14
Pentosans.....	.13
Ratio of ash to nonsugars.....	1:3.5

Adulteration was charged in the libel because, as shown by said analysis, a dilute solution of acetic acid and a product high in reducing sugar and foreign mineral matter had been mixed with and substituted for said vinegar so as to lower and reduce its quality and strength. Misbranding was alleged because said product was labeled "Cider vinegar" whereas in fact said product was not a cider vinegar but a mixture of cider vinegar and a dilute solution of acetic acid and a product high in reducing sugar and foreign mineral matter; because an imitation cider vinegar, consisting of the aforesaid substances, was offered for sale under the distinctive name of another article, to wit, cider vinegar; because the same was labeled so as to mislead and deceive the purchaser.

The Spielman Bros. Co., a corporation, intervened as claimants and filed an answer to the above libel, denying the allegations of adulteration and misbranding of said product and setting up the defence in law that the court was without jurisdiction in the premises for the reason that said libel was filed prior to seizure of the 100 barrels of vinegar mentioned therein. The case having come on for trial before the court without a jury, testimony and arguments of counsel were heard; motions on behalf of claimant for judgment in its favor were interposed and overruled, whereupon the court delivered its judgment finding for the libellant on all the issues of law and fact involved, and condemning and forfeiting the product to the United States.

Following are motions of counsel offered at the close of the testimony and rulings of the court thereon:

MOTION OF COUNSEL FOR CLAIMANT. UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA. UNITED STATES OF AMERICA V. ONE HUNDRED BARRELS OF VINEGAR.

Now at the close of all the evidence and after both the libellant and claimant have rested in the above entitled cause comes Spielman Bros. Co., claimant, by its attorneys, and moves the Court to dismiss the libel herein because said libel fails to allege and the evidence fails to show that prior to the institution of these proceedings the Secretary of Agriculture caused notice of the alleged misbranding and adulteration of the vinegar seized herein to be given to said claimant or to Barrett & Barrett or to any other person from whom samples were obtained; or that said claimant or said Barrett & Barrett or any other person was given an opportunity to be heard under the rules and regulations prescribed by the Three Secretaries mentioned in Section 3 of the Food and Drugs Act of June 30, 1906, under which this proceeding is had, on the question of whether or not the said vinegar was adulterated or misbranded within the meaning of said Act all as provided in Section 4 of said Act.

The COURT. While I have no case before me in which this matter has been decided, yet I have read the decisions which have been announced, and have considered the matter more or less. After such consideration I have come to the conclusion that in a proceeding under Section 10 of the Act of June 30, 1906, 34 Stat. L. 768, a preliminary investigation is not necessary. The construction of the word "penalties" in Section

5, is quite enlightening in determining this question. As has been said, Section 2 provides for a penalty against the person, and only provides for fines that are improperly called penalties. This investigation for which Section 4 provides, is an investigation the result of which must be certified by the Secretary of Agriculture to the District Attorney, and the District Attorney is then charged with the duty of prosecuting for the penalties. That on its face, in my judgment, would mean that the investigation refers to a case where there is a prosecution against the person, calling for penalties, and that it is not intended to cover a suit in rem for a condemnation and confiscation of the goods. That interpretation is strengthened by the decisions I have read, that notice should be given to the person liable for the penalty, and the person liable shall have an opportunity to be heard.

I will deny the motion accordingly.

Now, at the close of all the evidence in the above entitled cause and after both the libellant and the claimant have rested, comes Spielman Bros. Co., said claimant, by its attorneys, and moves the Court to dismiss the libel herein for want of jurisdiction because it appears from the evidence and the files and records herein that the goods libeled herein were not seized by the Marshal of this court until after the libel was filed herein and the monition issued thereon, whereas in order to confer jurisdiction on this Court the said goods should have been seized prior to the filing of said libel and the issuance of said monition.

The COURT. I have already decided that question. I will deny the motion.

Now, at the close of all the evidence and after both the libellant and claimant have rested in the above entitled cause, comes Spielman Bros. Co., claimant, by its attorneys, and moves the Court to dismiss the libel herein for want of jurisdiction because it does not appear from the evidence that the vinegar seized herein was shipped in interstate commerce for sale in original and unbroken packages or that said vinegar was transported in interstate commerce for sale within the meaning of Section 10 of the Food and Drugs Act of June 30, 1906, under which this proceeding is had.

The COURT. I think this is covered by a decision of the Supreme Court. I will therefore deny the motion.

Motions requesting the court to find the issues generally for the claimant and to enter a special finding of fact for the claimant were also denied. The decision of the court follows:

DECISION. UNITED STATES DISTRICT COURT, DISTRICT OF MINNESOTA. UNITED STATES OF AMERICA V. ONE HUNDRED BARRELS OF VINEGAR.

Bulletin No. 65 of the Department of Agriculture, Bureau of Chemistry, entitled, Provisional Methods for the Analysis of Foods, adopted by the Association of Official Agricultural Chemists, November 14-16, 1901, contains a statement by William Frear, relating to the Determination of the Sources of a Vinegar, and gives some tests by which the genuineness of cider vinegar can be known. Circular No. 19, of the Department of Agriculture issued on June 26, 1906, establishes a standard for vinegar. The evidence in the case as well as that of the claimant as that of the government establishes the fact that a compound one-half of which is pure cider vinegar and the other half something else, will answer the tests mentioned in Bulletin No. 65, and meet the requirements of Circular No. 19. Such an adulterated article which would not be pure cider vinegar would nevertheless have to be pronounced such if these tests and standards are the only ones to be applied. The tests and standards contained in other literature upon the subject published prior to 1906, are substantially those stated in the bulletin and in the circular. The testimony of the claimant's experts is based on such tests and standards. It being proved that these are worthless, it follows that the opinions of such experts based on such standards to the effect that this article is pure cider vinegar are entitled to no great weight.

Is there any evidence in the case which shows some other test by reference to which the genuineness of this vinegar can be determined? The government is not limited to the standards mentioned in the bulletin and circular above referred to. In the trial of litigated cases the government is not even limited to methods of analysis which may be adopted under Regulation No. 4. The question in this case being whether or not the article is pure cider vinegar, the government can make use of any test which is an accurate one for deciding that question. Whether it is an accurate one or not must be decided by the Court from all the evidence in the case. The testimony shows that practically all commercial vinegar is now made by the generator process. This process, however, is of recent origin, so recent that there is no literature on the subject. Most of the literature relating to cider vinegar has reference to the other forms of production.

Does the evidence disclose any accurate test for the determination of pure cider vinegar made by the generator process? It is claimed by the government that the testimony of the witnesses Bender and Goodnow, supplemented by that of Doolittle, does show such a test. Without discussing this evidence in detail, it may be said that Bender, while in the employ of the government operated commercial cider vinegar factories for several months in New Jersey, Massachusetts and New York. He was there for the purpose of determining the constituents of cider vinegar. He made analyses every day of the cider stock before it entered the generator, and of the vinegar which came from the generator. Goodnow as an employee of the government was at generator factories in Michigan, New York and New Jersey. His purpose was the same as that of Bender, and he made daily analyses extending over months, as Bender did. The result of these experiments was, so far as glycerin is concerned, as follows: The maximum quantity of glycerin found by Goodnow in any sample in Michigan was 0.46, the minimum 0.24; in New York 0.31 and 0.25. Bender's results in New Jersey were maximum 0.45 and minimum 0.25. These experiments, extending through several months, in hundreds of samples show no sample with less than 0.24 or more than 0.46 of glycerin.

Glycerin is not mentioned in any way, either in the bulletin or in the circular above referred to. The government with these experiments as a basis, claims that it has discovered a new test the accuracy of which has been established by the evidence. This contention is sustained. That glycerin exists in cider stock is not denied by the claimant, though one of its experts claims that it was practically destroyed in the generator process. That claim is not in any way substantiated by the evidence nor by the literature relating to wine vinegar. The evidence in fact shows that but little glycerin is lost by passing the cider through the generator and converting it into vinegar.

The claimant's objections to this test are various. It says that no such test had ever been heard of before, and that there is nothing in the literature upon the subject of cider vinegar which in any way refers to such a test. If such an objection were to prevail it would prevent the application of any new test, no matter how thoroughly its accuracy might be established. Objections as to the knowledge which Bender and Goodnow had as to the character of the stock, to the manner in which they made their experiments, and the seasons of the year when they were made, have all been considered, but they are not deemed sufficient to destroy the value of such experiments.

The evidence having established the glycerin test as an accurate one for the determination of the purity of cider vinegar, it is now to be applied to the vinegar here in question. Samples B, C, and D, were taken on February 1, 1911. The smallest amount of glycerin found in any of Bender's or Goodnow's experiments being 0.24, these samples show respectively 0.13, 0.11, and 0.13. Samples E and F, known as the composite samples, were taken May 15, 1911. They are a mixture of equal quantities taken from six barrels. These samples show respectively 0.14 and 0.16 of glycerin.

The claimant objected to the method pursued in determining the amount of glycerin, and its experts characterized that method as entirely inaccurate. Such evidence does not substantially weaken that of the government chemists who testified to its accuracy. Moreover, the fact remains that using the same method in all these experiments, they always found a substance which they called glycerin. Applying precisely the same method to claimant's product, they found precisely the same substance, but in only one-half of the minimum quantity.

Claimant points out that the analyses of Bender and Goodnow were made as the vinegar came from the generator, while the samples in this case were analyzed, some of them six weeks after the vinegar was received in barrels in Saint Paul, some ten weeks afterwards, and some six months afterwards; but the evidence does not show that these lapses of time would materially affect the character of the vinegar stored in closed barrels.

The claim that the character of that vinegar was materially changed during that time by the formation of mother in it is not borne out by the evidence. No serious objection can be made to the manner in which the samples were taken. Even if the barrel had contained solid matter at the bottom of it, and if it had been shaken so as to mix this solid matter with the whole mass, the sample then drawn off would have been filtered before analysis, in order to get rid of that matter. The experts of the government basing their opinion upon the application of the glycerin test and upon other facts which appear in the analysis, particularly the high ratio between the ash and the non-sugar solids, testify that the claimant's product is not pure cider vinegar, but is a compound of about one-half cider vinegar and the other half distilled vinegar or diluted acetic acid, with the addition of other substances, the identity of which they could not determine. The opinion of the claimant's experts being based, as has been said, upon inadequate standards cannot outweigh the testimony of the government.

It may be worthy of remark that the evidence shows that the claimant has a cider vinegar factory in Michigan, and a distilled vinegar factory in Chicago; it also may be noted that the claimant presented no evidence to show whether it bought this vinegar, or manufactured it, and if it manufactured it out of what substance it was made.

The motion of the claimant at the close of the evidence to dismiss the libel, because no proceedings were instituted by the Secretary of Agriculture prior to the filing of the libel, such as are provided for in Section 4, of the Food and Drugs Act, is denied.

The investigation provided for in Section 4, seems to refer to cases in which there is to be a prosecution under Section 5, for the enforcement of penalties referred to in Section 2. It has no reference to proceedings for condemnation under Section 10.

The amendment to Regulation No. 5, issued February 6, 1911, evidently is based upon this construction of the law, for that provides that notice shall be given in every case to the party or parties against whom prosecution lies under this act. Moreover, the necessities of the proceeding under Section 10, could not abide the delay caused by an investigation such as is prescribed by Section 4. While that investigation is being carried on the property might disappear, or the packages be broken and become part of the general property of the State.

The motion of the claimant made at the close of the testimony to dismiss the libel, because the property was not seized before the libel was filed, is denied. *United States v. Two Barrels of Desiccated Eggs* 185 Fed. 302; *United States v. George Spraul & Co.* 185 Fed. 405.

The motion of the claimant made at the close of the testimony to dismiss the libel, on the ground that it does not appear that the vinegar seized here was shipped in interstate commerce for sale in original unbroken packages, is denied. *Hipolite Egg Company v. United States*, 219 U. S. —. The same case 34 Sup. Ct. Rep. 364.

The motions made by the claimant at the close of the testimony for a general finding in its favor and for special findings in its favor, are denied.

I make a general finding in this case in favor of the Government, and find that the vinegar seized under this libel, to-wit, 70 barrels, was both adulterated and misbranded.

Let judgment of condemnation and for the costs be entered against the 70 barrels of vinegar seized in this proceeding, as prayed for in the libel.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 5, 1911.*

1159



THE HISTORY OF THE

REIGN OF

CHARLES I.

BY

JOHN BURNET

OF THE UNIVERSITY OF OXFORD

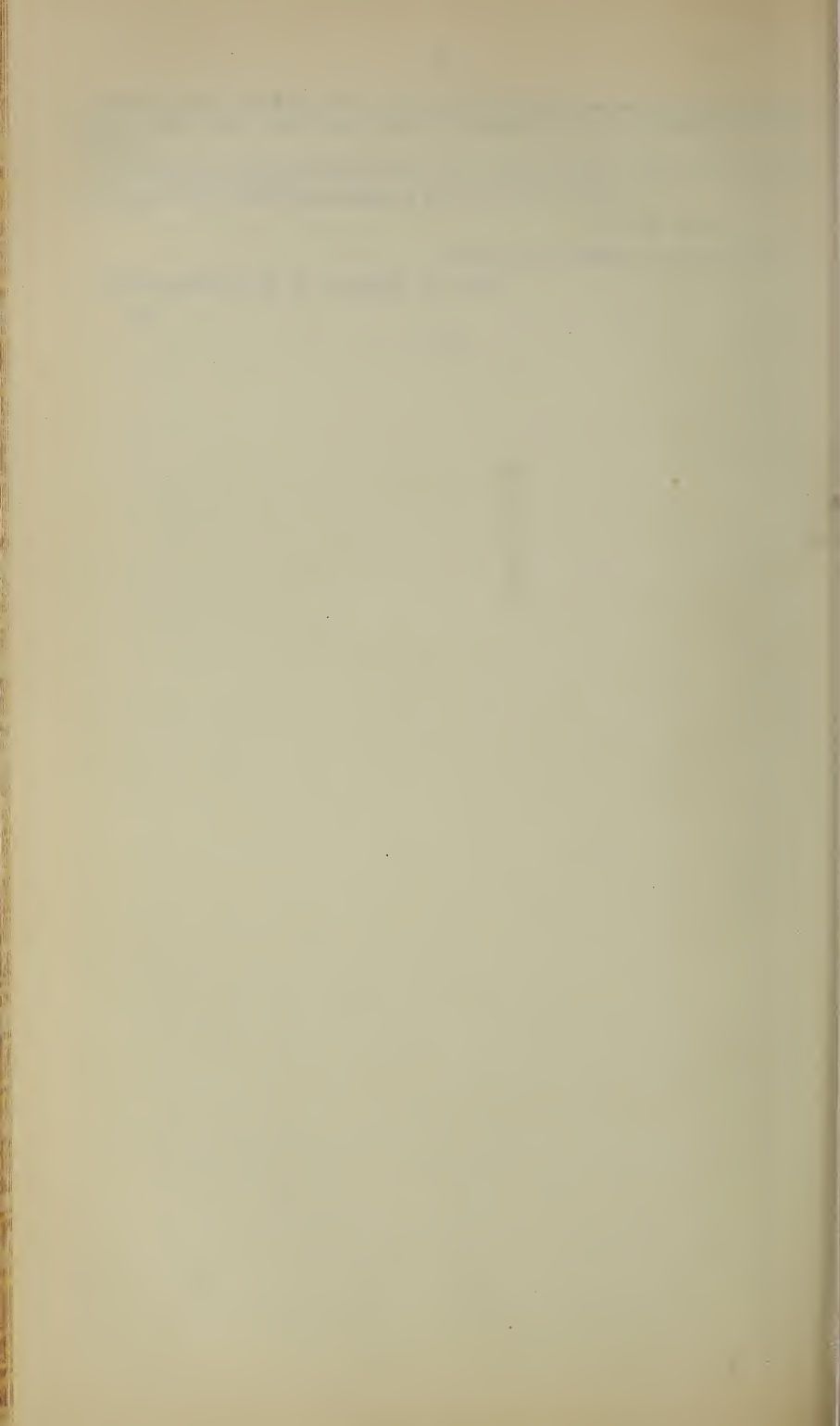
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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1160.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF CREAM.

On or about June 29, 1911, William M. Thompson, of Purcellville, Va., sold and delivered at the Union Station, Washington, D. C., a quantity of cream. Dr. William C. Woodward, Health Officer of the District of Columbia, acting under the authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the cream was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said William M. Thompson was afforded an opportunity for hearing, and as it appeared after the hearing held that the said sale was in violation of the act, the said Health Officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information against the said William M. Thompson was filed in the Police Court of the District of Columbia, charging that the cream was adulterated in that a valuable constituent of the article, to wit, butter fat, had been left out and abstracted in whole or in part.

On August 7, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 5, 1911.*



Journal of the Department of Agriculture

Volume 10, No. 1

1900

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1900

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Washington, D. C.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1161.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF MILK.

On or about July 10, 1911, Howard L. Smith, of Frederick, Md., sold and delivered at the Union Station, Washington, D. C., a quantity of milk. Dr. William C. Woodward, Health Officer of the District of Columbia, acting under authority of the Secretary of Agriculture, caused a sample from the above delivery to be procured and analyzed. As the findings of the analyst and report made indicated that the milk was adulterated within the meaning of the Food and Drugs Act of June 30, 1906, the said Howard L. Smith was afforded an opportunity for hearing, and as it appeared after the hearing held that the said sale was in violation of the act, the said Health Officer reported the facts to the United States Attorney for the District of Columbia.

In due course a criminal information against the said Howard L. Smith was filed in the Police Court of the District of Columbia charging that the milk was adulterated in that there had been mixed and packed with it a substance, to wit, water, which reduced and lowered its quality.

On August 4, 1911, the defendant entered a plea of guilty and the court imposed a fine of \$10.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 5, 1911.*



Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration of said product was alleged because it consisted in large part of a filthy and decomposed vegetable substance as shown by the aforesaid examination, and misbranding was alleged for the reason that the weight or measure of said product was not correctly stated on the labels as shown by the aforesaid examination.

On March 6, 1911, the cause coming on to be heard and no person appearing as claimant and the marshal having reported that he had seized 227 cases of the tomato catsup, the court found said product to be adulterated and misbranded as alleged in the libel and that the United States was entitled to a decree of condemnation as prayed for. Accordingly on that date a decree was entered condemning and forfeiting the product to the United States and ordering its destruction by the marshal.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., October 7, 1911.

1162

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1163.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF TOMATO CATSUP.

On December 19, 1910, the United States Attorney for the Eastern District of Missouri, acting upon the report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 300 cases of tomato catsup in the possession of Reinhart Grocery Co. The product was labeled as follows: (On case) "2 Doz. 14 oz. Lucky Boy Catsup Reinhart Grocery Co., St. Louis." (On bottle) "Lucky Boy Brand Silicate Sodium Tomato Catsup Contains 1/10 of 1% Benzoate of Soda—Packed for Reinhart Grocer Co., St. Louis—Reinhart Smith Grocer Co., Marion, Ill." Two official samples were collected from this shipment, the first designated I. S. No. 2293-c, consisting of one case containing 24 bottles, octagon shape. The other was designated I. S. No. 2294-c, consisting of one case containing 24 bottles, champagne shape.

Examinations of said samples were made by the Bureau of Chemistry of the United States Department of Agriculture showing in the case of I. S. 2293-c, yeasts and spores 84 per one-sixtieth cmm., bacteria 96,000,000 per cc., mold filaments present in 76 per cent of the fields; and in the case of I. S. 2294-c, yeasts and spores 71 per one-sixtieth cmm., bacteria 72,000,000 per cc., and mold filaments present in 89 per cent of the fields. Both samples were also examined for a test of capacity and in the case I. S. 2293-c, the bottles were found to be full measure, but in case of I. S. 2294-c, 17 bottles showed an average shortage of 7.24 per cent. The libel alleged that the tomato paste after shipment by the Frazier Packing Co., Elwood, Ind., from the State of Indiana into the State of Missouri, remained in the original unbroken packages and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure and confiscation.

Adulteration was alleged because the product consisted in whole or in part of a filthy, decomposed, and putrid vegetable substance. Misbranding was alleged against the catsup contained in the champagne shaped bottles, I. S. No. 2294-c, for the reason that the capacity of said bottles was not correctly stated on the label, in this, to wit, that the label represented the contents to be 14 ounces, when in fact the aforesaid examination showed a shortage in 17 bottles of 7.24 per cent.

On March 6, 1911, the cause coming on to be heard and no answer being filed and no person appearing as claimant, and the marshal having reported the seizure of 248 cases of the tomato catsup mentioned in the libel, the court found the said product to be adulterated and misbranded as alleged in the libel, and that the United States was entitled to a decree of condemnation as prayed for. Accordingly a decree was entered on that date condemning and forfeiting the catsup to the United States and ordering its destruction by the marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 9, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1164.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF VERMONT MAPLE BUTTER HOTCH.

On March 6, 1911, the United States Attorney for the District of Vermont, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against the Maple Tree Sugar Co. of Vermont, a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about February 25, 1910, from the State of Vermont into the State of Colorado, of a quantity of Vermont Maple Butter Hotch, which was misbranded. The product was labeled: "Genuine Vermont Maple Leaf Brand Butter Hotch. A delicious confection prepared with pure maple sugar and choice Vermont butter. Made only by the Maple Tree Sugar Co. of Vermont at Rutland. No other sugar but pure maple sugar is used in making this confection."

Analysis of a sample of said product, made by the Bureau of Chemistry of the United States Department of Agriculture, showed the following results: Sucrose, Clerget, 54.36 per cent; commercial glucose, 35.58 per cent; polarization direct at 30° C., 114.6; polarization invert at 87° C., 58.0; ash, 1.12 per cent; polarization invert at 30° C., 45.2. Misbranding was alleged for the reason that the statement on the label, "A delicious confection prepared with pure maple sugar and choice Vermont butter," is false and misleading and calculated to deceive the purchaser into the belief that the confection is prepared from these two ingredients only, when in fact it contains a large quantity of commercial glucose, the presence of which is not declared on the container.

On June 6, 1911, the defendant pleaded guilty and was fined \$50 without costs.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 9, 1911.*



THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY

JOHN BURNET

THE HISTORY OF THE REIGN OF CHARLES THE FIRST, BY JOHN BURNET, A BISHOP OF THE CHURCH OF ENGLAND. IN THREE VOLUMES. THE FIRST VOLUME. LONDON, Printed by J. Streater, at the Sign of the Gun, in St. Dunstons Church-yard, 1679.

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1165.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF OATS.

On August 1, 1911, the United States Attorney for the Eastern District of Virginia, at the instance of the Deputy Dairy and Food Commissioner of the State of Virginia, who was acting under authority of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of two carloads of oats. Both cars of oats were consigned by T. A. Grier & Co., of Peoria, Ill., one to Alvey Bros. and the other to Simpson, Bass & Co., both of the city of Richmond, State of Virginia. The said oats were sold and invoiced as No. 3 mixed oats.

Samples of said oats were taken by a duly authorized inspector from the cars on the tracks of the Chesapeake & Ohio Railway Co., Richmond, Va., and were examined by Dr. C. M. Bradbury, a collaborating chemist of the United States Department of Agriculture, said examination showing that the oats consigned to Alvey Bros. contained only about 60.8 per cent of oats, the remainder being foreign seeds, stems, straws, dirt, and other foreign matter; and the consignment to Simpson, Bass & Co. contained only about 66.92 per cent of oats, the remainder being foreign matter. The libel alleged the interstate transportation of said oats as aforesaid and that they remained in the original unbroken packages, and were adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and were therefore liable to seizure for confiscation. Adulteration was alleged for the reason that other substances, to wit, foreign seeds, stems, straws, dirt, and other foreign matter had been mixed and packed with the product so as to reduce, lower, or injuriously affect its quality or strength, and had been substituted wholly or in part therefor. Misbranding was alleged for the reason that said oats were sold and invoiced as oats, when in fact they were not oats, but a mere imitation thereof.

On August 1, 1911, the court found the oats adulterated and misbranded as alleged in the libel, and entered a decree condemning and confiscating the two carloads of oats to the United States, but with a proviso that upon the payment of costs and giving of a proper bond conditioned that the oats should not be sold or disposed of contrary to law, that they might be released to the claimant, whereupon the bond was given and the seized goods were duly released.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., October 9, 1911.

1165



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1166.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF VANILLA EXTRACT.

On January 21, 1910, the United States Attorney for the Southern District of Texas, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one barrel of vanilla extract in the possession of the Jones & Cogswell Ice Cream Co., Houston, Tex. The barrel containing said product was not labeled, but the product was manufactured and consigned by Warner-Jenkinson Co., St. Louis, Mo., and invoiced as "30 Gallons All Bean Vanilla," and purchased by the consignee under the belief that it was a pure vanilla extract.

Analysis of a sample of said product made by the Bureau of Chemistry of the United States Department of Agriculture showed the addition of commercial vanillin and coumarin, and that it contained but a small quantity, if any, of vanilla extract. The libel alleged, among other things, that the product, after transportation from the State of Missouri into the State of Texas, remained in the original unbroken package, and was misbranded, and therefore liable to condemnation, and confiscable for the following reasons: (1) That the invoice of the said barrel of the said ice cream company represented the liquid in said barrel contained to be "30 gallons all Bean Vanilla," and that its color is such as to give it the appearance of genuine vanilla extract, in violation of section 7 of said act; that the said liquid is not in truth and in fact all bean vanilla extract, but is a product which has been colored and mixed by the addition of artificial coloring matter in a manner whereby inferiority is concealed and in order to imitate genuine vanilla extract, and whereby the said product does imitate and appears to be genuine vanilla extract. (2) That the said barrel is misbranded in violation of the Food and Drug Act of June 30, 1906, in that the said barrel is described in

the invoice aforesaid as "30 gallons all Bean Vanilla," whereas in truth and in fact the contents of said barrel contains a very small per cent of genuine vanilla extract if it contains any per cent whatever of such extract. (3) That said barrel of liquid hereinbefore mentioned and described was sold under such conditions that the consignees were led to believe that it was an all bean vanilla so that the description and representations concerning the same are misleading and false, so as to deceive and mislead the purchaser as to the character and quality of the contents of said barrel, branded, described, and represented as aforesaid is a deceit and a misbranding within the meaning of the act aforesaid. (4) That the branding, description, and representations concerning said liquid is further misleading and deceptive, and is a misbranding within the meaning and in violation of the said Food and Drugs Act approved June 30, 1906, in that the said barrel does not contain a liquid which may be truthfully called "All Bean Vanilla," but contains merely a neutral spirit colored and flavored by the addition of artificial matter, to wit, commercial vanilla and coumarin, so as to produce the color and approximate the taste of genuine vanilla extract, and in truth and in fact contains but a small per cent of the genuine extract of vanilla, if any quantity or proportion of extract of vanilla whatever. On March 26, 1910, Warner-Jenkinson Co. appeared by counsel as claimant of said product, and filed exceptions to the libel, which exceptions were, on the same day, amended by claimant by leave of court first obtained, whereupon the court, after argument and due consideration, overruled the exceptions and amended exceptions.

On March 30, 1911, the cause coming on for hearing, the court entered final judgment, holding the product to be misbranded as alleged in the libel, and condemning and forfeiting it to the United States, and ordering the marshal to dispose of it by sale under such terms and conditions as are not in violation of law. From this judgment claimants sued out a writ of error to the United States Circuit Court of Appeals for the Fifth Circuit. The case was thereafter heard by said court, which affirmed the judgment of the lower court, as follows: "In the opinion of a majority of the judges there is no reversible error shown by the record. The judgment of the District Court is, therefore, affirmed."

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 10, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1167.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF VINEGAR.

On June 21, 1911, the United States Attorney for the District of Massachusetts, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 73 barrels of vinegar in the possession of Haskell Adams & Co., Boston, Mass. The product was labeled "Pure Cider Vinegar put up for Haskell Adams and Company, Boston, Mass." Each of the barrels was stamped as to capacity, indicating the vinegar content which was invoiced and charged for accordingly.

Accurate gauging of said barrels by inspectors of the Bureau of Chemistry of the United States Department of Agriculture showed there was a shortage in the total consignment of 100½ gallons. The libel alleged that the vinegar after shipment by the Vermont Fruit Co., from Bellows Falls, Vt., into the State of Massachusetts remained in the original unbroken package and was misbranded in violation of the Food and Drugs Act of June 30, 1906, because the contents of said barrels were stated in measure but were not correctly stated, as hereinbefore shown, and that the product was, therefore, liable to seizure for confiscation.

On June 21, 1911, the cause coming on to be heard, on the information and the admission by the claimant that the merchandise proceeded against was misbranded as set forth in the information, the court entered a decree adjudging the said vinegar misbranded as alleged in the libel and condemning and forfeiting it to the United States, but with a proviso that the merchandise should be delivered to the claimant upon the payment of the costs of the proceedings and the execution and delivery of a good and sufficient bond to the effect that the merchandise should not be sold or disposed of contrary to law.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 10, 1911.*



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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1168.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHEESE.

At a stated term of the District Court of the United States for the Northern District of California, begun the second Monday of July, 1910, the grand jurors of the United States within and for said district, acting upon a report of the Secretary of Agriculture, returned an indictment against Wieland Bros., a corporation, of said district, charging shipment by said corporation, as the sole distributors for the Novato French Cheese Factory, at Novato, Cal., on April 27, 1910, in violation of the Food and Drugs Act of June 30, 1906, from the State of California into the State of Nevada, of one box of so-called breakfast cheese, the said box containing a large number of individual cakes of cheese, which cakes of cheese were branded as follows: Each of said cakes of cheese was labeled with a circular label containing the words "Frühstücks-Käschen," in German type, and on the lower portion of the said label the words "German Breakfast Cheese." in English type, surrounding a design of the eagle of the Prussian coat of arms, with the words "Circle Brand," and a circle enclosing the letter "X."

Examination of samples of said cheese, made by the Bureau of Chemistry of this Department, showed it to be a domestic product, and furthermore, the case in which said cheese was shipped stated that the cheese was made in Novato, Cal. Misbranding was charged in the indictment because said cheese was so labeled as to purport it to be a foreign product, when not so: and the label was, therefore, false and misleading, and calculated to deceive and mislead the purchaser.

The defendant corporation filed a demurrer to the indictment, which the court, on April 7, 1911, sustained.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 11, 1911.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1169.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHEESE.

At a stated term of the District Court of the United States for the Northern District of California begun the second Monday of July, 1910, the grand jurors of the United States, within and for said district, acting upon a report of the Secretary of Agriculture, returned an indictment against Wieland Bros., a corporation, of said district, charging shipment by said corporation, as the sole distributors for the Novato French Cheese Factory at Novato, Cal., on the 26th day of March, 1910, in violation of the Food and Drugs Act of June 30, 1906, from the State of California into the State of Washington, of 70 cases of cheese, each case of which cheese contained a large number of small individual cakes of cheese, each of which cakes was branded as follows: Each cake of cheese was labeled with a circular label containing the words "Frühstücks-Käschen" in German type, and the words "German Breakfast Cheese" in English type, surrounding a design of the eagle of the Prussian coat of arms with the words "Circle Brand" and a circle enclosing the letter "X".

Examination of samples of said cheese, made by the Bureau of Chemistry of this Department, showed it to be a domestic product, and furthermore the cases in which said cheese was shipped stated that the cheese was made in Novato, Cal. Misbranding was charged in the indictment because said cheese was so labeled as to purport it to be a foreign product, when not so, and the label was, therefore, false and misleading, and calculated to deceive and mislead the purchaser.

On April 7, 1911, the case coming on for trial, resulted in a conviction of the defendant corporation, whereupon the court, in pronouncing judgment, fined the defendant \$50.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 11, 1911.*



THE UNIVERSITY OF CHICAGO

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CHICAGO, ILL., U.S.A.

CHICAGO, ILL., U.S.A.

The University of Chicago is a private research university located in Chicago, Illinois. It was founded in 1837 and is one of the oldest and most prestigious universities in the United States. The university is known for its commitment to academic excellence and its wide range of research programs. It has a long history of producing world-class scholars and leaders in various fields of study. The university's campus is located in the Hyde Park neighborhood of Chicago, and it covers an area of over 1,000 acres. The university is home to over 15,000 students and over 5,000 faculty members. It is a member of the Association of American Universities and the Ivy League. The university's motto is "The Love of Learning".

CHICAGO, ILL., U.S.A.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1170.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF DR. TOWNS' EPILEPSY TREATMENT.

On April 19, 1911, the United States Attorney for the Eastern District of Wisconsin, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Dr. Towns' Medical Co., a corporation, Fond du Lac, Wis., alleging shipment by it, in violation of the Food and Drugs Act, on or about August 30, 1910, from the State of Wisconsin into the District of Columbia, of a drug product labeled "Dr. Towns' Epilepsy Treatment," which was misbranded. The product was labeled as follows: (On carton) "Established 1874 Dr. Towns' Epilepsy Treatment Our Field The World * * * Guaranteed By Dr. W. Towns, under the Pure Food and Drugs Act, June 30, 1906. Serial No. 5051. This remedy possesses wonderful healing * * * properties. This Medicine is unequaled for the Relief of Convulsions, Spasms, St. Vitus Dance, Opium Habit, Hysteria, Alcoholism also a splendid Remedy for * * * Tumors and all kinds of Skin Diseases." (On bottle) "Dr. Towns' Epilepsy Treatment * * * Permanently relieve any case of Epilepsy, Spasms, Convulsions, Insomnia, St. Vitus Dance, Hysteria, Alcoholism, Paralysis, and other nervous diseases." (On circular) "Dr. Towns' Epilepsy Treatment "Dr. Towns' Epilepsy Cure. A Twentieth Century Cure for Epilepsy." (In booklet) "Most Physicians claim that there is no permanent relief for epilepsy or fits. I claim that there is a positive, permanent and speedy relief. * * * My treatment for this disease has been tried, tested and proven to be a remarkable success for many years and those who take the treatment seldom have a repetition of the attack after the first week's treatment. Even physicians who have used the treatment in their practice state that it will permanently relieve 95% of all cases of epilepsy, as well as other nervous

diseases." "The treatment is * * * a remedy unprecedented in affording permanent relief in all nervous conditions." "My treatment has cured cases of 45 years standing." "My treatment is calculated first to put an end to the primary cause of epilepsy, and then to eradicate the subsequent causes. That my treatment has been successful is proved by the remarkable array of results during almost two score years that I have been treating this disease." "Seldom more than one fit should occur after the commencement of my treatment." "My treatment arrests the disease at once and by keeping the nervous system under the influence of the treatment for several months, a permanent relief should be effected." "My treatment is the sovereign remedy for epilepsy * * * It has cured a remarkable number of the most severe cases ever come to my attention * * * It is effective, reliable * * * and once you give yourself over into my hands you never again will find yourself attacked by this fearful disease." "I claim for my treatment a superiority over all other known curative agents."

Analysis of a sample of this product, made by the Bureau of Chemistry of this Department, showed the treatment to consist of (1) A water solution of bromide of ammonium, and chloride of sodium, with valerian, flavored and sweetened; (2) a sulphonal pill, massed with talcum and tolu, and sugar coated; and (3) black pills composed of charcoal, sugar, phosphorus and inorganic matter, combining a small amount of strychnin-bearing material. Misbranding was alleged for the reason that the above quoted statements from the label appearing on the carton and bottle of the treatment, and in the circular and booklet packed with said bottles, are false and misleading, because they convey the impression that the treatment in question possesses therapeutic properties of high value in the treatment of epilepsy and diseases of the nervous system, when in fact the agents of which said treatment is composed, taken singly or together, cannot be relied upon for a cure of epilepsy or kindred diseases, any beneficial effect which the treatment might have being only temporary and palliative.

On May 2, 1911, the said corporation pleaded guilty, and was fined \$25.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *October 20, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1171.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF OATS.

On October 24, 1911, the United States Attorney for the Middle District of Tennessee, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Thomas M. Logan, doing business as Logan & Co., in the city of Nashville, alleging shipment by him, in violation of the Food and Drugs Act, on or about March 25, 1909, from the State of Tennessee into the State of Georgia, of a quantity of oats, which were misbranded and adulterated. The product bore no label, but was offered for sale and sold as "white oats."

Analysis of a sample of said product by the Bureau of Chemistry of this Department showed it to contain oats, 84 per cent; wheat, chaff, barley, etc., 16 per cent. Adulteration was alleged for the reason that other substances, to wit, wheat, barley, and chaff, were substituted in part for white oats. Misbranding was alleged for the reason that said product was offered for sale and sold under the distinctive name of another article, to wit, white oats, when in fact it was a mixture of oats, wheat, barley, and chaff.

On October 25, 1910, the defendant pleaded guilty, and was fined \$25 and costs.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *October 20, 1911.*

14164°—No. 1171—11



THE HISTORY OF THE

REIGN OF

CHARLES THE FIRST

BY JOHN BURNET

IN TWO VOLUMES

THE FIRST VOLUME

THE SECOND VOLUME

LONDON

Printed by J. Sturges

1704

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1172.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF FRUIT JELLY.

On July 7, 1911, the United States Attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 500 pails of imitation fruit jelly, in the possession of J. S. Brown Mercantile Co., Denver, Colo. The product was labeled: "10 lbs. Gross" "D. B. Scully Syrup Company, Chicago—Imitation Fruit Jelly—Compound; 60% Corn Syrup, 35% Apple Trimmings Juice, 5% Sugar—Contains added Phosphate."

Before the product was delivered by the common carrier to the consignee the inspector and chief of the Denver Laboratory of the United States Department of Agriculture weighed and checked 142 pails of the shipment, and reported a total shortage of 5.5 per cent. The libel alleged that the said jelly after transportation from the State of Illinois into the State of Colorado remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the following reasons:

(a) That all said wooden pails were and are misbranded and mislabeled within the meaning of the aforesaid act in that the statement of the weight and measure of the said wooden pails was and is not printed, either on or immediately above or below the principal label as hereinbefore set forth and of the size of 8-point (brevier) capitals; but instead it was and is true that the statement of the weight of said wooden pails, to wit, "10 lbs. Gross," was and is printed on the lids of the said pails as aforesaid, and not on or immediately above or below the principal label as required by regulation 29 for the enforcement of the Food and Drugs Act, as adopted by the Departments of Agriculture, Treasury, and Commerce and Labor.

(b) That all said wooden pails were and are misbranded and mislabeled within the meaning of the aforesaid act in that the statements on the lids of the said pails as aforesaid, to wit, "10 lbs. Gross," were and are not statements of the average net weight or volume of the weight and measure of the food or article of food contained in said pails, but instead, it was and is true that said labels "10 lbs. Gross," were and are statements of the gross weight of both pail and contents and not the net weight of the food contained within said pails, as required by regulation 29 for the enforcement of the Food and Drugs Act, as adopted by the Departments of Agriculture, Treasury, and Commerce and Labor.

(c) That all said wooden pails were and are misbranded and mislabeled within the meaning of the aforesaid Pure Food Act in that the labels on the lids of the said pails as aforesaid, to wit, "10 lbs. Gross," did and do not state correctly and truly the gross weight of the said packages; and the labels, to wit, "10 lbs. Gross," on each and every of said wooden pails were and are false and misleading and so worded as to deceive and mislead purchasers into believing that said wooden pails and contents as aforesaid, and each of them, contained 10 pounds gross weight, whereas, in truth and in fact, said packages and each of them did and do not contain 10 pounds gross weight, but instead, contain a very much smaller amount, to wit, an average of five and forty-eight hundredths per cent (5.48 per cent) less than 10 pounds gross, as so stated on the lids of said wooden pails.

On July 22, 1911, the case coming on for hearing, the D. B. Scully Syrup Co. appeared as claimants and owners of said product, and admitted that the same was misbranded, as alleged in the libel, and prayed that the product be released to them upon their payment of costs, and giving a bond conditioned that said product should not again be sold contrary to law. Whereupon the court entered a decree condemning and forfeiting the product to the United States, but with the proviso that upon the payment of the costs of the proceedings and the giving of a sufficient bond in the sum of \$1,000 by claimants conditioned that the said goods should not be again sold contrary to law, that they should be released to claimants. The claimants paid the costs and gave bond in the sum of \$1,000, and the product was restored to them.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 20, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1173.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF WHEAT.

On May 17, 1909, the United States Attorney for the Northern District of Texas filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one car-load of wheat shipped by the Hall-Baker Grain Co., Kansas City, Mo., to the Walker Grain Co., Fort Worth, Tex., and remaining in the original car on the tracks of the Gulf, Colorado and Santa Fe Railway Co., at Fort Worth, Tex. The said wheat was not labeled, but was sold and shipped as No. 2 red wheat.

Samples of said wheat were collected by J. S. Abbott, Dairy and Food Commissioner of the State of Texas, acting under the authority of the Secretary of Agriculture as an inspector of this Department, which were examined by P. S. Tilson, duly authorized and empowered as a collaborating chemist of the Bureau of Chemistry of this Department, who reported said samples to consist of 40 per cent hard wheat. The libel alleged that the wheat, after transportation from the State of Missouri into the State of Texas, remained in the original unbroken package, to wit, the car in which the same was shipped, and that it was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was, therefore, liable to seizure and confiscation. Adulteration was alleged because another substance, to wit, hard wheat, had been mixed with and substituted in part for No. 2 red wheat. Misbranding was alleged because said wheat was sold under the distinctive name of another article, to wit, No. 2 red wheat, when in fact it was not No. 2 red wheat, but a mixture thereof with 40 per cent hard wheat, whereby the purchaser was deceived and misled.

On May 26, 1909, the case coming on for hearing, and the Walker Grain Co. having appeared as claimant and owner of said wheat, and admitted its adulteration and misbranding as alleged in the libel, the court adjudged the said wheat adulterated and misbranded in violation of the aforesaid act, and decreed its condemnation, with a proviso, however, that should said claimant pay all costs of the proceedings and execute and deliver a good and sufficient bond that said wheat should not be again disposed of contrary to law the same should be released to claimant. The costs being paid and bond given, the wheat was released accordingly.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 23, 1911.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1174.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF DESICCATED EGG PRODUCT.

On February 18, 1910, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one barrel of desiccated egg product in the possession of the Connecticut Pie Co., Norfolk, Va.

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture revealed that the product contained an enormous amount of bacteria, many of which were of the gas-producing type, and that the product consisted of a filthy, decomposed, and putrid animal substance. The libel alleged that the product, after shipment by Meyers & Hicks, of Baltimore, Md., from the State of Maryland into the State of Virginia, remained in the original unbroken package, and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed animal substance, and was therefore liable to seizure for confiscation.

On November 9, 1910, the case coming on for hearing, and no appearance having been made or answer filed, the court found said product to be adulterated, as alleged in the libel, and that the United States was entitled to a decree of condemnation as prayed for, and accordingly a decree was entered, condemning and forfeiting the product to the United States, but on motion of the district attorney, and it being represented to the court that the said barrel of desiccated egg was desired by the United States in a case pending in the District Court of the United States for the Northern District of Illinois, at Chicago, it was ordered that the marshal forthwith express the said barrel of desiccated egg product to the District Attorney at Chicago.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 23, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1175.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF TOMATO CATSUP.

On December 17, 1910, the United States Attorney for the Eastern District of Missouri, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 557 cases of tomato catsup in the possession of the Scudders Gale Grocer Co., St. Louis, Mo. Two hundred and fifty-seven cases were labeled as follows: "4 Doz. 8 oz. Owl Catsup Scudders Gale G. Co., St. Louis." Each bottle was labeled: "Owl Brand Tomato Catsup—put up for the Scudders Gale Grocery Co., St. Louis, Mo.—Prepared with 1/10 of 1% Benzoate of Soda." One hundred cases were labeled as follows: (On case) "2 Doz. 16 Oz. Buffalo Catsup—Scudders-Gale G. Co., St. Louis." (On bottles) "Buffalo Brand Tomato Catsup. Warranted first-class. Not artificially colored. Prepared from fresh, ripe tomatoes. Put up for the Scudders-Gale Grocer Co., St. Louis, Missouri, U. S. A." Two hundred cases of said catsup were labeled as follows: (On case) "2 doz. 14 oz. Owl Catsup. Scudders-Gale G. Co., St. Louis." (On bottles) "Owl Brand Tomato Catsup. Put up for the Scudders-Gale Grocer Co., St. Louis, Mo. Prepared with 1/10 of one per cent Benzoate of Soda." Official samples from the first lot were collected and designated: First lot, I. S. No. 2300-c; second lot, I. S. No. 2284-c and 2285-c; and third lot, I. S. No. 2286-c and 2287-c.

Examination of these samples was made by the Bureau of Chemistry of the United States Department of Agriculture with the following results: Sample I. S. 2300-c: Yeasts and spores 87 per one-

sixtieth cubic millimeter; bacteria 190 million per cubic centimeter; mold filaments present in 78 per cent of the fields. Sample I. S. 2284-c: Yeasts and spores, 100 per one-sixtieth cubic millimeter; bacteria 100 million per cubic centimeter; mold filaments present in 90 per cent of the fields. Sample I. S. 2285-c: Yeast and spores 95 per one-sixtieth cubic millimeter; bacteria, 72 million per cubic centimeter; mold filaments in 85 per cent of the fields. Sample I. S. 2286-c: Yeast and spores 72 per one-sixtieth cubic millimeter; bacteria, 120 million per cubic centimeter; mold filaments present in 60 per cent of the fields. Sample I. S. 2287-c: Yeast and spores 62 per one-sixtieth cubic millimeter; bacteria, 96 million per cubic centimeter; mold filaments present in 75 per cent of the fields. The libel alleged that the tomato catsup, after shipment by the Frazier Packing Co., Elwood, Ind., from the State of Indiana into the State of Missouri, remained in the original unbroken packages, and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance, and was therefore liable to seizure for confiscation.

On March 6, 1911, the case coming on to be heard, and no answer being filed, and no person appearing as claimant, the court found the product adulterated as alleged in the libel, and that the United States was entitled to a decree of condemnation as prayed for. Accordingly a decree was entered, condemning and forfeiting the goods to the United States, and ordering their destruction by the marshal.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *October 23, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1176.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF PEERLESS HORSE FEED.

On April 19, 1911, the United States Attorney for the Eastern District of Illinois, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against F. L. Kidder & Co., alleging shipments by said company, in violation of the Food and Drugs Act, on or about March 19, 1910, from the State of Illinois into the State of Indiana, of consignments of stock feed which were misbranded. Each consignment was labeled as follows: (On sack) "F. L. Kidder & Co. 100 lbs. Peerless Horse Feed, Corn & Wheat Bran, Paris, Ill. Protein 10%, fat 4%." (On tag) "No. 2449. 100 pounds. F. L. Kidder & Co. of Paris, Ill. guarantees this Peerless Hominy Feed to contain not less than 7.5 per cent of crude fat, 8.5 per cent of crude protein and to be compounded from the following ingredients: Corn product."

Analysis made by the Bureau of Chemistry of the United States Department of Agriculture of samples of said product taken from each consignment showed one consignment, designated I. S. 17256-b, to contain moisture 6.80 per cent, ether extract 3.08 per cent, protein 9.04 per cent, and crude fibre 6.74 per cent; and the sample from the consignment designated I. S. 17257-b to be corn and wheat bran and to contain 3.04 per cent ether extract, 7.47 per cent protein, and 9.86 per cent moisture. The information contained six counts charging misbranding, but when the case came on for trial a nolle prosequi was entered by the District Attorney as to all of said counts except the first and fourth. Misbranding was alleged in the first count for the reason that the label falsely represented the product to contain 10 per cent protein and 4 per cent fat, when in fact it contained 7.47

per cent protein and only 3.04 per cent fat. Misbranding was alleged in the fourth count for the reason that the label falsely represented the product to contain 10 per cent protein and 4 per cent fat, when in fact it contained only 9.04 per cent protein and only 3.08 per cent fat.

On September 6, 1911, the defendant company pleaded guilty to counts one and four and was fined \$25 on each of said counts and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 25, 1911.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1177.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF RICE.

On August 31, 1911, the United States Attorney for the District of Minnesota, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 403 pockets of rice in the possession of Griggs, Cooper & Co. The product was labeled: "Rice—Coated with glucose and talc—Remove by washing before using—131—Japan." Three hundred and one pockets of said rice were labeled as follows: "Rice coated with glucose and talc. Remove by washing before using. 131—Japan." One hundred and two pockets of said rice were labeled as follows: "Rice coated with glucose and talc. Remove by washing before using. 26—Japan."

Examination by the Bureau of Chemistry of the United States Department of Agriculture of samples taken from both lots of said rice showed that the products were domestic grown rice. The libel alleged that 301 pockets of said rice were shipped in interstate commerce by Chas. E. Cormier Rice Co. from the city of New Orleans, La., into the State of Minnesota, and that 102 pockets of said rice were shipped in interstate commerce by the Alliance Rice & Milling Co., of Houston, Tex., into the State of Minnesota, and that all of said rice remained in the original unbroken packages and was in violation of the Food and Drugs Act of June 30, 1906, and therefore liable to seizure for confiscation. Misbranding was alleged for the reason that the said rice was so branded and labeled as to indicate that it was a product of the Empire of Japan, when in fact it was a domestic product, which was calculated to mislead and deceive the purchaser.

On September 4, 1911, on motion of the United States Attorney and it appearing that the claimant, Griggs, Cooper & Co., had duly

appeared, waived notice by publication and consented, in writing, that a decree of condemnation and forfeiture be entered as prayed for in the information, the court entered a decree condemning and forfeiting the said rice to the United States, but with the proviso that upon the payment of all costs of the proceedings and the execution of a good and sufficient bond in the sum of \$500, conditioned that said rice should not be sold or disposed of contrary to law, the same should be released to the claimants, the cost being paid and bond given, the rice was forthwith delivered to claimants in accordance with the decree.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., October 25, 1911.

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1178.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF DIXIE FEVER AND PAIN POWDER.

On August 18, 1910, the United States Attorney for the Western District of Arkansas, acting upon the report of the Secretary of Agriculture, filed information in the District Court of the United States for said district against Morris-Morton Drug Co., a corporation, of Fort Smith, Ark., alleging shipment by it, in violation of the Food and Drugs Act, on or about August 12, 1909, from the State of Arkansas into the State of Tennessee, of a quantity of a drug product which was misbranded. The product was labeled: "Dixie Fever and Pain Powder Each Powder contains 60% acetanilid. Reduces fever and relieves pain. Anodyne Antipyretic. Trade Mark. Useful in all cases of fever to lower temperature and relieve pain. A positive and immediate relief for Headache, Neuralgia, Catarrh, La Grippe, Cold in the head, Rheumatism, Sleeplessness and all Nervous Conditions. Reduces all kinds of fevers, such as Intermittent, Remittent, Hay fever, Chill Fever, Etc. Price 25 cents. It relieves all pains in the Head, Face and Body which are caused by Cold, La Grippe, Neuralgia, Exposure, or Dissipation. Prepared by Morris-Morton Drug Co., Fort Smith, Ark. Directions: For Fever, take one powder every two hours until fever cools. If the fever is very high it is better to give one-half a powder every hour. For children 3 to 12 years, one-fourth to one-half a powder, according to age, every two hours. The powder may be given on the tongue and swallowed with water or mixed in a tablespoon with water or syrup. Always swallow a little water after taking. For Headache, Neuralgia, La Grippe, Cold in the Head, Earache, Toothache, Pain over the Eyes, Rheumatism, etc., take one powder, and if convenient lie down for 20 to 30 minutes, and if not relieved in two hours, take

another powder. The second one will usually relieve the most severe case. If suffering from periodical attacks of the above troubles, they will grow less frequent and less severe by using these powders. Ladies of weak and delicate constitutions, half a powder is sufficient. For Insomnia or Sleeplessness, one powder taken on going to bed will produce a natural and healthy sleep. One-half powder given with each dose of Quinine will prevent its unpleasant effect on the head. Prepared by Morris-Morton Drug Co., Fort Smith, Ark."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of this product showed it to be a mixture of acetanilid, caffeine, sodium bicarbonate, and charcoal. Misbranding was alleged for the reason that the following statements contained in the label are false and misleading and tend to deceive the purchaser because the ingredients in said drug do not possess therapeutic properties adequate to attain the results claimed by said statements, to wit: 1. "Useful in all cases of fever to lower temperature and relieve pain." 2. "A positive and immediate relief for headache, neuralgia, catarrh, la grippe, cold in the head, rheumatism, sleeplessness, and all nervous conditions." 3. "It relieves all pains in the Head, Face and Body, which are caused by Cold, La Grippe, Neuralgia, Exposure, or Dissipation." 4. "If suffering from periodical attacks of the above troubles (Headache, Neuralgia, La Grippe, Cold in Head, Earache, Toothache, Pains over Eyes, Rheumatism), they will grow less frequent and less severe by using these powders." 5. "For Insomnia or Sleeplessness, one powder taken on going to bed will produce a natural and healthy sleep."

On December 16, 1910, defendant pleaded guilty and was fined \$10 and costs, or a total of \$24.40, which sum was paid forthwith.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 26, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1179.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF STELLO'S ASTHMA CURE.

At a stated term of the Circuit Court of the United States for the Southern District of New York, begun on the first Monday of July, 1911, the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in said Circuit Court of the United States against William H. Muller, alleging shipment by him, on or about June 17, 1910, from the State of New York into the District of Columbia, of a quantity of a product labeled "Stello's Asthma Cure," which was misbranded. The product was labeled: (On carton) "Stello's Asthma Cure. * * * Muller, New York. * * * A great discovery overthrowing all theories of inhalation. * * * Guaranteed under the Food and Drugs Act, June 30, 1906. Full directions inside. William H. Muller, Proprietor, New York, U. S. A. This preparation contains together with other valuable ingredients 1 $\frac{1}{4}$ drop tinct. Cannabis Indica to each tablespoonful * * * A permanent cure is assured to all. Stello's Asthma Cure Works Wonders." (On bottle) "Stello's Asthma Cure * * * It will relieve the worst case of asthma in a surprisingly short time, while by persistent use according to directions and rules laid down a permanent cure is assured. * * *" (On circular enclosed in the package containing this preparation) "A proven radical and permanent cure * * * relieves the cause permanently. It acts * * * by lubricating the muscular fibre of the airsacs of the lungs and the valves of the respiratory and bronchial tubes. * * * the cure begins at once, * * * Permanent cures have been accomplished in six and seven weeks in thousands of cases. Everyone is promised a cure. * * * It is entirely vegetable, * * * free from narcotics."

An analysis by the Bureau of Chemistry of the United States Department of Agriculture of samples of this product showed it to be a liquid containing alcohol by volume 4.25 per cent, potassium iodide 2.36 per cent, glycerine about 22 per cent, a small quantity of tincture cannabis indica, and the balance water and undetermined matter. Misbranding was alleged for the reason that said product contained cannabis indica, the quantity or proportion of which was not stated on the label on the bottle, and alcohol, the quantity or proportion of which was not stated on any of the labels borne by said product.

On September 6, 1911, the defendant pleaded guilty and was fined \$50.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 26, 1911.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1180.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF GRINDING NUTMEGS.

On August 1, 1911, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed information in the Circuit Court of the United States for said district against Lewis German & Co., alleging shipment by said company, in violation of the Food and Drugs Act, on or about February 3, 1911, from the State of New York into the State of Massachusetts of a quantity of grinding nutmegs which were adulterated.

An examination by the Bureau of Chemistry of the United States Department of Agriculture of samples of this product showed the following results: General appearance of nutmegs is poor. Sample shows the following approximate percentage by weight: Nutmegs neither moldy or worm-eaten, 35 per cent; nutmegs with trace of mold only, 16 per cent; nutmegs with considerable mold, 2 per cent; dust, shells, and small fragments of nutmegs, 13 per cent; wormy or worm-eaten nutmegs, 34 per cent. Adulteration was alleged for the reason that said product consisted in whole or in part of a filthy, decomposed, or putrid animal or vegetable substance, as shown by the aforesaid analysis.

On September 6, 1911, the defendant pleaded guilty and was fined \$20.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 28, 1911.*

15525°—No. 1180—11

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1181.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF EGG NOODLES.

On July 31, 1911, the United States Attorney for the Southern District of New York, acting upon a report by the Secretary of Agriculture, filed information in the Circuit Court of the United States for said district against the Maas Baking Co., alleging shipment by said company, in violation of the Food and Drugs Act of June 30, 1906, on or about February 15, 1910, from the State of New York into the State of New Jersey of a quantity of egg noodles which were misbranded. The product was labeled: "Maas Baking Co. Egg Noodles Broad (Small type): Art. Col'd-Mac' Color Veg't Compound, Saffron used."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of this product showed it to be colored with a coal-tar dye known as Naphthol Yellow S, and disclosed no evidence of any egg being contained in said product. Misbranding was alleged for the reason that said product was labeled "egg noodles" when in fact it contained no egg, and the legend used to designate the presence of artificial color is misleading in that it conveys the impression that saffron is the coloring matter used when in fact the product is colored with a coal-tar dye, and saffron, if present at all, is in a very minute quantity, and the statements on the label were therefore false and misleading.

On September 6, 1911, the defendant pleaded guilty and was fined \$25.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 28, 1911.*

Journal of the Department of Agriculture

OFFICE OF THE SECRETARY

WASHINGTON, D. C.

1875-76

CONTENTS OF THE JOURNAL

The Journal of the Department of Agriculture is published weekly, except on Sundays and public holidays. It contains all the official reports, communications, and other documents of the Department, as well as the reports of the various bureaus and offices. It also contains a large amount of original research, and is a valuable source of information for all those interested in agriculture.

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Wm. A. Rorer, Secretary
Department of Agriculture

Published by the Government Printing Office

Washington, D. C.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1182.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED MISBRANDING OF HALL'S CATARRH CURE.

At the June term of the United States District Court for the Northern District of Ohio the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in said court against F. J. Cheney, doing business as the Cheney Medicine Co. and F. J. Cheney & Co., alleging shipment by him, in violation of the Food and Drugs Act, on or about October 22, 1909, from the State of Ohio into the District of Columbia, of a quantity of a drug denominated "Hall's Catarrh Cure," which was misbranded. The drug was labeled as follows: (On bottle) "Hall's Catarrh Cure. F. J. Cheney & Co., Toledo, Ohio. Contains 14 per cent of alcohol (used only as a solvent and to prevent freezing). This valuable remedy has been thoroughly tried and proved itself a cure for catarrh. We offer it to the public with full confidence in its merits. Directions: A teaspoonful in two tablespoonsful of water after each meal, being particular not to omit its use, for its omission for a single day is equivalent to the loss of a week in the cure. Prepared from the original recipe by F. J. Cheney & Co., Toledo, O., Price 75 cents. Registered in U. S. Patent Office, Oct. 23, '79. Revised label Nov. 1st, 1906." (On carton) "\$100 Reward for any Case of Catarrh that can't be cured with Hall's Catarrh Cure. Full Directions inside. Manufactured by F. J. Cheney & Co., Toledo, Ohio, U. S. A. Price 75 cents. Hall's Catarrh Cure. Alcohol 14 per cent, used as a solvent and to prevent freezing. F. J. Cheney & Co., Toledo, Ohio. Hall's Catarrh Cure. Taken Internally, Toledo, Ohio. Serial No. 42, Guaranteed by F. J. Cheney & Co., under the Food and Drugs Act, June 30, 1906." A pamphlet accompanying the bottle, wrapped around it, and enclosed therewith inside carton, contained the following statements: "In curing the catarrh Hall's Catarrh Cure does

away with the other difficulties such as syphilitic and Scrofulous complaints" * * * "Catarrh often affects the sense of smell and sometimes totally destroys it. This is caused by its actions upon the olfactory nerve which is located just beneath the mucous lining of the nasal cavity. Hall's Catarrh Cure by acting directly upon the mucous surfaces through the blood, restores this nerve to its normal condition and renders it capable of performing its function."

* * * Hall's Catarrh Cure is an internal remedy, acting directly upon the blood and mucous surfaces of the system cleansing it from its impurities and causing the puriform matter to be carried off through the natural channels."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of said drug showed it to be a liquid preparation containing 15.11 per cent nonvolatile material (total dissolved solids), including 10.81 per cent potassium iodide, 3 per cent invert sugar, a small amount of the extract of some bitter drug, probably gentian, and a slight amount of resinous material. The volatile portion included 13.8 per cent alcohol by volume, cardamon and caraway in small quantity, and water. Misbranding was alleged for the reason that the statements appearing on the label and carton and in the pamphlet were false and misleading and calculated to deceive and mislead the purchaser because the said drug did not contain such ingredients or therapeutic properties capable of affording the relief or cure claimed therefor.

On March 31, 1911, the defendant appeared and filed a general demurrer to the information. On June 6, 1911, the said cause coming on for hearing on said demurrer the court rendered an opinion in which it said, among other things, that—"No charge is made that there is misbranding as to character and quantity of ingredients, but simply that a false deduction was made as to the therapeutic value of the remedy. The case presents no substantial difference from that of *U. S. v. O. A. Johnson*, decided by the Supreme Court of the United States on May 29, 1911, and it is plainly the duty of this court to consider that decision as an authority herein. The demurrer is, therefore, sustained, and the information dismissed."

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 30, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1183.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHEESE.

On September 9, 1909, the United States Attorney for the Southern District of Florida, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 74 cheeses in the possession of Williams & Moorehouse, Tampa, Fla. The said cheeses were labeled: "Williams and Moorehouse Fancy Full Cream Cheese, Tampa, Florida, M. & W.," and in addition, they all bore numbers ranging from 17 to 23, inclusive.

An inspector of the Bureau of Chemistry of this Department weighed 90 cheeses out of this consignment to ascertain whether they were correctly marked as to net weight, with the following results: 16 cheeses were found to be of the weight indicated by the numbers; 3 cheeses were found to be 2 pounds short; 4 cheeses were found to be 1½ pounds short; 22 cheeses were found to be 1 pound short; and 45 cheeses were found to be one-half pound short. The libel alleged that the said cheeses, after shipment by the S. J. Stevens Co., Sheboygan, Wis., from the State of Wisconsin into the State of Florida, remained in the original unbroken packages, and were misbranded in violation of the Food and Drugs Act of June 30, 1906, and were therefore liable to seizure and confiscation. Misbranding was alleged for the reason that the boxes containing said cheeses did not contain the net weight of the cheese that they purported to contain as indicated by pencil marks in black pencil upon the sides of each of said boxes, and that said false weight was therefore false and misleading and calculated to deceive and mislead the purchaser as to the actual net weight of said cheeses.

On October 5, 1909, it appearing to the court that Williams & Moorehouse had filed claim and answer for delivery to the owner

thereof of said cheeses, and had executed and delivered a good and sufficient bond in the sum of \$300 conditioned that the said cheeses should not be again sold contrary to law, the court ordered that the 13 cheeses found and seized in said proceeding be delivered to the aforesaid claimants.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 31, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1184.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VINEGAR.

On March 14, 1911, the United States Attorney for the District of New Jersey, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 30 barrels of vinegar in the possession of D. P. Forst & Co. (Inc.), Trenton, N. J. The product was labeled: "Fermented Syrup Vinegar, from H. Erdmann's Sons, 1810 Frankford Avenue, Phila. Pa."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of said product showed the following results:

	Grams per 100 cc.
Solids	2. 53
Reducing sugar, direct	1. 43
Reducing sugar, invert	1. 66
Polarization, direct, temperature 20° C.....	0. 0
Ash 47
Ash, insoluble in water.....	. 04
Alkalinity of soluble ash (cc N/10 acid, 100 cc)	4. 0
Soluble phosphoric acid (mgs per 100 cc)	0. 0
Insoluble phosphoric acid (mgs per 100 cc)	3. 9
Acid, as acetic.....	4. 32
Color removed by fuller's earth (per cent)	70
Color, degrees, brewer's scale (0.5 in. cell).....	6
Chlorin as sodium chlorid.....	. 34

The libel alleged that the vinegar, after transportation from the State of Pennsylvania into the State of New Jersey, remained in the original unbroken packages, and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged in that a substance, to wit, distilled vinegar, artificially colored, had

been mixed and packed with the article so as to reduce, lower, and injuriously affect its quality and strength and had been substituted wholly or in part for said article, and further because said article had been colored in a manner whereby its inferiority was concealed. Misbranding was alleged because said article was in imitation of and sold under the distinctive name of another article, to wit, fermented syrup vinegar, when in fact it was a distilled vinegar, artificially colored, and the statement on the label was therefore false and misleading.

On April 4, 1911, H. Erdmann's Sons appeared as claimants and filed their answer denying generally the allegations of the libel. On May 23, 1911, the said cause coming on for hearing, the court entered the following decree:

"And now May 23rd, 1911, the above cause being moved for trial by Walter H. Bacon, Esq., Assistant United States Attorney and H. Erdmann's Sons, claimants, by William A. Hayes, their attorney, stating to the court that the said claimants would obliterate the present branding on said thirty barrels vinegar, to wit, Fermented Syrup Vinegar, and rebrand the said as follows: (which form of rebranding is satisfactory to the United States) "Fermented Syrup and Distilled Vinegar Compound—Natural Color" and would pay the cost of said libel proceedings and execute and deliver a good and sufficient bond to the effect that said articles, to wit, Thirty barrels Vinegar, should not be resold or otherwise disposed of, contrary to the provisions of the Act of Congress approved June 30th 1906, or the laws of any State, territory, district or insular possession, the court doth order and direct that upon such obliteration and rebranding of the said thirty barrels vinegar, the payment of the costs and the execution and delivery of the bond of said H. Erdmann's Sons and Hugh D. Trout in the sum of One Hundred Dollars, that the said thirty barrels vinegar be delivered to the H. Erdmann's Sons."

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 31, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1185.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF DESICCATED EGG PRODUCT.

On February 18, 1910, the United States Attorney for the Eastern District of Virginia, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of one barrel of desiccated egg product in the possession of the Connecticut Pie Co., Norfolk, Va.

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture revealed that the product contained an enormous number of bacteria, many of which were of a gas-producing type, and that the product consisted of a filthy, decomposed, and putrid animal substance. The libel alleged that the product, after shipment by the National Bakers Egg Co., of Sioux City, Iowa, from the State of New York into the State of Virginia, remained in the original unbroken package and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed animal substance, and was, therefore, liable to seizure for confiscation.

On February 11, 1911, the case coming on for hearing, and no appearance having been made or answer filed, the court found the product to be adulterated as alleged in the libel, and that the United States was entitled to a decree of condemnation and forfeiture, whereupon the court entered a decree condemning and forfeiting the product to the United States and ordered it to be forthwith destroyed by the marshal.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *October 31, 1911.*

THE UNIVERSITY OF CHICAGO

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The University of Chicago is a private research university in Chicago, Illinois. It was founded in 1837 as the first American university to be organized on the European model, and is one of the leading universities in the world. The university is known for its commitment to academic excellence and its diverse student body. It has a long history of producing world-class scholars and leaders in various fields. The university's research output is highly influential, and it has a strong reputation for its teaching and learning. The University of Chicago is a member of the Association of American Universities and is a part of the Ivy League. It is also a member of the Association of Research Universities. The university's motto is "The Love of Knowledge".

THE UNIVERSITY OF CHICAGO

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THE UNIVERSITY OF CHICAGO



THE UNIVERSITY OF CHICAGO

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1186.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF CHEESES.

On September 17, 1909, the United States Attorney for the Southern District of Florida, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 98 cheeses in the possession of Williams & Moorehouse, Tampa, Fla. The cheeses were labeled: "Williams & Moorehouse, Tampa, Florida, W. A. & M." In addition each cheese bore a number, ranging from 19 to 25, inclusive.

An inspector of the Bureau of Chemistry of the United States Department of Agriculture weighed 100 cheeses of this consignment, and found that with one exception they were all short of the marked weight. The results of his weighing are as follows: One cheese was 3 pounds short of marked weight; three cheeses were 2 pounds short of marked weight; twenty-one cheeses were $1\frac{1}{2}$ pounds short of marked weight; sixty-five cheeses were 1 pound short of marked weight; nine cheeses were one-half pound short of marked weight; and one cheese was 1 pound over marked weight. The libel alleged that the cheeses, after shipment by A. H. Barber & Co., Chicago, Ill., from the State of Illinois into the State of Florida, remained in the original unbroken packages, and were misbranded in violation of the Food and Drugs Act of June 30, 1906, and were therefore liable to seizure for confiscation. Misbranding was alleged for the reason that the boxes containing the said cheeses did not contain the net weight of the cheese they purported to contain and indicated by pencil marks in black pencil on the sides of said boxes, and that said marking of said false weight was misleading and false and calculated to deceive and mislead the purchaser of the cheese as to the actual net weight of same contained in each box.

On October 1, 1909, the said case coming on to be heard, and it appearing that Williams & Moorehouse having filed claim and answer for the delivery to them of said cheeses, and having executed a good and sufficient bond in the sum of \$1,000, conditioned that said cheeses should not be again sold contrary to law, and having paid the costs of the proceedings, the court ordered said ninety-eight cheeses to be delivered to the said Williams & Moorehouse.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., November 1, 1911.

1186



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1187.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF SYRUP.

On September 23, 1909, the United States Attorney for the Southern District of Florida, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 20 half barrels of syrup in the possession of the Consolidated Grocery Co., Tampa, Fla. Each of the barrels of syrup was labeled: "Alaga Alabama-Georgia Syrup—Alabama-Georgia Syrup Company, Montgomery, Ala." On another portion of the label in obscure type appeared the following: "Alaga brand syrup is a blend of pure ribbon cane syrup with just enough corn syrup to keep same from sugaring or souring. Its merit is what tells."

Examination of a sample of said product by the Bureau of Chemistry of the United States Department of Agriculture showed that the product was composed of over 50 per cent corn syrup. The libel alleged that the syrup, after shipment by the Alabama-Georgia Syrup Co., Montgomery, Ala., from the State of Alabama into the State of Florida, remained in the original unbroken packages, and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the reason that the syrup contained in said half barrels was not a pure ribbon cane syrup with just enough corn syrup to keep the same from sugaring or souring, but on the contrary that said syrup was composed principally of corn syrup, and that said half barrels did not contain the food product as represented on the label.

On October 7, 1909, said cause coming on to be heard, and it appearing to the court that the Consolidated Grocery Co., a corporation, had filed claim and petition for the delivery to the owner thereof

of the syrup seized, and had executed and delivered a good and sufficient bond in the sum of \$300, conditioned that said syrup should not again be sold contrary to law, and had paid the costs of the proceedings, it was ordered that said syrup be delivered by the marshal to the aforesaid company.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., November 1, 1911.

1187



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1188.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF LEMON FLAVOR.

At the November term, 1910, of the United States Circuit Court for the Eastern District of Louisiana, the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in said Circuit Court against Charles Dennery, alleging shipment by him, in violation of the Food and Drugs Act, on or about December 20, 1909, from the State of Louisiana into the State of Texas, of a quantity of so-called lemon flavor which was adulterated and misbranded. The product was labeled: "Special Lemon Flavor strengthened with citral and artificially colored. Charles Dennery, Bakers and Confectioners Supplies, Utensils and Machinery, New Orleans, U. S. A. Guaranteed by Charles Dennery, New Orleans, U. S. A., under the Food and Drugs Act, June 30, 1906."

Analysis by the Bureau of Chemistry of the United States Department of Agriculture of a sample of this product showed the following results: Specific gravity, 15.6° C., 0.9420; alcohol, per cent by volume, 45.5; solids, 0.10 gram; oil, per cent by volume, by polarization, 0.15, by precipitation, none; citral, per cent by weight 0.241; color, coal-tar dye, probably Naphthol Yellow S. Adulteration was alleged for the reason that there had been mixed and packed with said product an imitation lemon flavor mixed with citral which contained no lemon oil, so as to lower and reduce the quality and strength of said article. Adulteration was further alleged for the reason that the imitation lemon flavor mixed with citral and containing no lemon oil had been substituted for the genuine article—lemon extract. Misbranding was alleged for the reason that the label bore the statement that the article was a lemon flavor, which was false and misleading, and calculated to deceive and mislead the purchaser into

believing that it was genuine lemon extract or flavor, when in fact the article was not a genuine lemon extract or flavor, but an imitation thereof. Misbranding was further alleged for the reason that said product was an imitation of and sold under the distinctive name of another article, to wit, lemon extract or flavor, when in fact it was not genuine lemon extract or flavor, but an imitation thereof.

On January 10, 1911, the defendant pleaded guilty, and was fined \$10 and costs.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., November 1, 1911.

1188



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1189.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COFFEE ESSENCE.

On July 24, 1911, the United States Attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 30 cases of coffee essence in the possession of Simon Fischer, Pittsburgh, Pa. Seventeen cases, each containing a number of retail units, were labeled: "Narodna Slovenska Cigoria Tatran Essence for Coffee 65% Caramel—Mixture—35% Cereals. Manufactured by A. Zverina, Cleveland, O. No. 7336 Guaranteed under the Food and Drugs Act June 30, 1906." Box ends: "Tatran Brand Essence for Coffee." Sides: "Tatran Brand Essence for Coffee. Manufactured by A. Zverina, Cleveland, O." Seven cases, each containing a number of retail packages, were labeled: "Feinste—No. 7336 Guaranteed under the Food and Drugs Act, June 30, 1906. Wiener Sorte Essence for Coffee Vienna Brand Essence for Coffee Manufactured by A. Zverina, Cleveland, O. Mixture 65% Caramel, 35% Cereals." Case ends: "Vienna Brand Essence for Coffee Manufactured by A. Zverina & Co., Cleveland, O. Size 2—65 rolls."

An examination of samples from said consignment, by the Bureau of Chemistry of the United States Department of Agriculture, showed the product to contain a small amount of ground prune stones. The libel alleged that the said product, after shipment by A. Zverina, Cleveland, Ohio, from the State of Ohio into the State of Pennsylvania, remained in the original unbroken packages, and was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Adulteration was alleged for the reason that a substance, to wit, ground prune stones, had been mixed and packed with the article so as to

reduce or lower or injuriously affect its quality or strength, and had been substituted in part therefor. Misbranding was alleged for the reason that said product was labeled to indicate that it was a mixture of 65 per cent caramel and 35 per cent cereals, when in fact it contained ground prune stones. The statement on the label was therefore false and misleading.

On September 6, 1911, the cause coming on to be heard, and it appearing to the court that A. Zverina had appeared as claimant of said property, and filed a petition praying for the release of same to him, the court found that said coffee essence was misbranded, as alleged in the libel, but ordered that the same be released to the claimant upon the payment of costs of the proceedings, and the execution of a good and sufficient bond conditioned that said property should not be again sold contrary to law.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., November 1, 1911.

1189



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1190.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COFFEE.

On January 30, 1911, the United States Attorney for the Eastern District of Louisiana, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 30 cases of coffee in the possession of the Louis Levy Grocer Co. (Ltd.), Baton Rouge, La. Each of the cases containing the coffee bore the following label: "The Original Javaland—Louis Levy Grocer Company, Limited, Baton Rouge, La. 50—1 lbs. cans (or 12—4 Pound Pails)". Each can contained in said cases was labeled as follows: "The Original Javaland (and in very small type and in an inconspicuous position in the picture on the label) Coffee, Chicory and Cereal—International Coffee Co.—Importers—Roasters, Houston, Texas—(picture of negroes picking coffee from bush)." And on the back of each can appeared the following label: "Javaland is guaranteed to be superior in every respect to any brand of coffee on the market, and requires but one half the usual amount to make a most elegant drink. The price recommends it at once to all and a trial only is necessary to substantiate our claims."

Examination of samples of said coffee by the Bureau of Chemistry of the United States Department of Agriculture showed the product to contain about 40 per cent Rio coffee, 40 per cent chicory, and 20 per cent cereal, and that there was no indication of Java coffee. The libel alleged that the coffee, after transportation from the State of Texas into the State of Louisiana, remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the reason that said coffee contained about 40 per cent Rio coffee, 40 per cent chicory, and 20 per

cent cereal, and there was in it no indication of Java coffee, and the use of the word "Javaland", as a designation of the product, which term would indicate the presence of Java coffee, was false in that said coffee contained no Java coffee, and the label was therefore false and calculated to deceive and mislead the purchaser. Misbranding was further alleged because the article was in imitation of and sold under the distinctive name of another article, to wit, Java coffee, when in fact it was not Java coffee but a mixture of Rio, chicory, and cereal.

On March 16, 1911, the cause coming on for hearing, by agreement of counsel representing the respective parties and by reason of the consent of the claimants that judgment be at once entered condemning the coffee as being misbranded, the court entered a decree finding the coffee misbranded as alleged in the libel and condemning and forfeiting the same to the United States, but with a proviso that upon the payment of the costs of the proceedings and the execution of a bond in the sum of \$400, conditioned that said coffee should not be again sold contrary to law, the same be delivered by the marshal to the claimants.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., November 2, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1191.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF COFFEE.

On January 30, 1911, the United States Attorney for the Eastern District of Louisiana, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 15 cases of coffee in the possession of Jones-Whitaker & Co. (Inc.), Baton Rouge, La. Subsequently said libel was amended by leave of court first obtained so as to include 20 additional cases of said coffee in the possession of the aforesaid concern. Each of the aforesaid 15 cases containing said coffee bore the following label: "The Original Javaland—International Coffee Co., Houston, Texas—Jones Whitaker Co.—Baton Rouge, La.—50-1 lbs. Cans (or 12-4 Pound Pails)." Each can contained in said cases bore the following label: "The Original Javaland (and in very small type and in an inconspicuous position in the picture on the label) Coffee, Chicory and Cereal—International Coffee Co.—Importers—Roasters—Houston, Texas—(Picture of negroes picking coffee from bush)." On the back of each can appeared the following label: "Javaland is guaranteed to be superior in every respect to any brand of coffee on the market, and requires but one half the usual amount to make a most elegant drink. The price recommends it at once to all and a trial only is necessary to substantiate our claims." The additional 20 cases of said coffee each bore the identical labels as above described with the exception of the words "(or 12-4 Pound Pails)" appearing in the fifth line of said label.

Examination of samples of said coffee by the Bureau of Chemistry of the United States Department of Agriculture showed that it contained about 40 per cent Rio coffee, 40 per cent chicory, and 20 per cent cereal, and that there was no indication of Java coffee. The

libel alleged that the coffee after transportation from the State of Texas into the State of Louisiana remained in the original unbroken packages and was misbranded in violation of the Food and Drugs Act of June 30, 1906, and was therefore liable to seizure for confiscation. Misbranding was alleged for the reason that said coffee contained about 40 per cent Rio coffee, 40 per cent chicory, and 20 per cent cereal, and there was in it no indication of Java coffee, and that the use of the word "Javaland" as a designation of the product, which term would indicate the presence of Java coffee, was false, in that said coffee contained no Java coffee, and that such label was therefore false and calculated to deceive and mislead the purchaser in that the form and design of the label implied that the product contained Java coffee, when in fact it was not Java coffee but a mixture of Rio coffee, chicory, and cereal. Misbranding was further alleged because said product was in imitation and offered for sale under the distinctive name of another article, to wit, Java coffee, when in fact it was not Java coffee but a mixture of Rio coffee, chicory, and cereal.

On March 16, 1911, the cause coming on for hearing and it appearing to the court that counsel representing the respective parties had agreed that judgment should be entered at once condemning the coffee as misbranded, and that claimants be allowed to have said coffee released to them on giving bond in the sum of \$200, in accordance with the provisions of the Food and Drugs Act, the court entered a decree finding the said coffee misbranded, as alleged in the libel, and condemning and forfeiting the same to the United States, but with a proviso that it should be delivered to the claimants upon the payment by them of all costs of the proceedings and execution of a bond in the sum of \$250, conditioned that said coffee should not be again sold contrary to law.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 2, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1192.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED ADULTERATION OF OYSTERS.

On November 19, 1910, the United States Attorney for the District of Rhode Island, acting upon a report by the Secretary of Agriculture, filed information in the District Court of the United States for said district against Garrett F. Decker & Co., Pawtucket, R. I., alleging shipment by said company, in violation of the Food and Drugs Act, on or about November 18, 1909, from the State of Rhode Island into the State of Massachusetts, of a quantity of oysters which were adulterated.

A bacteriological examination made by the Bureau of Chemistry of the United States Department of Agriculture of a sample of said oysters showed them to contain excessive numbers of bacteria, including members of the *B. coli* group. Adulteration was alleged for the reason that the said oysters consisted in whole or in part of a filthy, decomposed, or putrid animal substance and were unfit for human consumption.

On May 31, 1911, the case was called for trial before a jury, and on June 1, 1911, the jury rendered a verdict of not guilty.

JAMES WILSON,
Secretary of Agriculture.

WASHINGTON, D. C., *November 4, 1911.*



United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1193.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION AND MISBRANDING OF VINEGAR.

On September 3, 1909, the United States Attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 205 barrels of vinegar in the possession of P. Duff & Sons, Pittsburgh, Pa., each barrel of which was labeled "Elk Pride, Fermented Apple, Pure Cider Vinegar. The Harbauer-Marleau Co., Toledo, Ohio." "Guaranteed under the Pure Food & Drug Act, June 30, 1906. Serial No. 8904." In addition the various barrels contained in consignments bore the following dates: July 27, 1909, July 29, 1909, and August 3, 1909.

Analyses of samples numbered for purposes of identification as I. S. 4492-b, 4493-b, 4494-b, were made by the Bureau of Chemistry of the United States Department of Agriculture with the following results:¹

(I. S. No. 4492-b) solids, 1.80; nonsugar solids, 1.19; reducing sugar, invert, 0.61; ash, 0.41; water soluble ash, 0.37; water insoluble ash, 0.04; polarization at 20° C., -0.2; soluble P_2O_5 (mg per 100 cc), 8.03; insoluble P_2O_5 (mg per 100 cc), 9.02; total acids, 4.24; volatile acids, 4.22; fixed acids, 0.02; total color (degrees, brewer's scale, 0.5 in. cell), 7.0; fuller's earth test 56 per cent.

(I. S. 4493-b) solids, 1.65; nonsugar solids, 0.99; reducing sugar, invert, 0.66; per cent sugar in solids, 40.1; polarization direct temperature 27° C., -0.4; ash, 0.303; ash, soluble in water, 0.262; ash, insoluble in water, 0.041; alkalinity of soluble ash (cc N/10 acid 100 cc), 29.2; alkalinity of insoluble ash (cc N/10 acid 100 cc), 9.2; soluble phosphoric acid (mg per 100 cc), 7.52; insoluble phosphoric acid (mg per 100 cc), 11.60; acid, as acetic, 4.17; volatile acid, as

¹ Results reported in grams per 100 cc unless otherwise indicated.

acetic, 4.14; fixed acid, as malic, 0.03; lead precipitate, heavy; color (degrees, brewer's scale 0.5 in. cell), 5; color removed by fuller's earth, 40 per cent.

(I. S. No. 4494-b) solids, 1.86; nonsugar solids, 1.08; reducing sugar, invert, 0.78; per cent sugar in solids, 41.7; polarization direct temperature 27° C., -0.3; ash, 0.339; ash, soluble in water, 0.294; ash, insoluble in water, 0.045; alkalinity of soluble ash (cc N/10 acid 100 cc), 32.2; alkalinity of insoluble ash (cc N/10 acid 100 cc), 8.0; soluble phosphoric acid (mg per 100 cc), 8.16; insoluble phosphoric acid (mg per 100 cc), 12.60; acid, as acetic, 4.12; volatile acid, as acetic, 4.09; fixed acid, as malic, 0.03; lead precipitate, heavy; color (degrees, brewer's scale 0.5 in. cell), 7; color removed by fuller's earth, 44 per cent.

The libel alleged that the vinegar, after shipment by The Harbauer-Marleau Co., Toledo, Ohio, from the State of Ohio into the State of Pennsylvania, remained in the original unbroken packages; that 60 barrels were received by said consignee on July 30, 1909, 80 barrels on August 5, 1909, and 65 barrels on August 10, 1909, and that said vinegar was adulterated and misbranded in violation of the Food and Drugs Act of June 30, 1906, and was, therefore, liable to seizure for confiscation. Adulteration was alleged for the reason that a substance, to wit, a mixture of acetic acid or distilled vinegar and a foreign material high in reducing sugar, prepared in imitation of cider vinegar, had been substituted wholly or in part for the article, and had been mixed with said article, whereby its inferiority was concealed. Misbranding was alleged for the reason that the said product was represented to be a pure cider vinegar, when in fact there had been substituted wholly or in part therefor a mixture of acetic acid or distilled vinegar, and a foreign material high in reducing sugar, which representation was therefore false and misleading.

On September 21, 1909, the case coming on to be heard, and the Harbauer-Marleau Co. having appeared and filed answer together with a petition praying for the release of said product, the court entered a decree finding the product adulterated and misbranded, as alleged in the libel, and condemning and forfeiting it to the United States, but with the proviso that the same should be released to claimants upon the payment by them of all the costs of the proceedings and the giving of a bond in a sum to be approved by the court, conditioned that said product should not be again sold contrary to law.

WILLIS L. MOORE,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 3, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1194.

(Given pursuant to section 4 of the Food and Drugs Act.)

ALLEGED MISBRANDING OF PEROXIDE CREAM.

At the December term of the Circuit Court of the United States for the Eastern District of New York the United States Attorney for said district, acting upon a report of the Secretary of Agriculture, filed information in said court against the American Drug-gists Syndicate, a corporation, New York, N. Y., alleging shipment by it, in violation of the Food and Drugs Act, on or about February 12, 1909, from the State of New York into the District of Columbia, of a product labeled "Peroxide Cream" which was misbranded. The product was labeled: (On circular) "A. D. S. Toilet Dainties." "A. D. S. Peroxide Cream." "It is a pure skin cerate, in which a harmless and efficient whitening agent has been successfully incorporated."

Analysis by the Bureau of Chemistry of a sample of said product showed the following results: Fatty acids, 29.317 per cent; moisture, 40.327 per cent; glycerine, 30.156 per cent; gum, 0.416; ash, 0.7417; boric acid, small amounts, and indication of a very small quantity of peroxide. Misbranding was alleged in the information in two counts; in the first count because the label bore statements, designs, and devices regarding such article and the ingredients and substances contained therein, which were false and misleading in that the words "Peroxide Cream" represented the peroxide as an important ingredient, and was intended to lead the purchaser to believe that peroxide was an important ingredient of such article, when in fact said article contained only an indication of a very small quantity of some peroxide, which said quantity was insignificant. Misbranding was alleged in the second count for the reason that the circular accompanying the article "A. D. S. Toilet Dainties" bore statements, designs, and devices regarding the article and the ingredients and substances contained therein, which were false and misleading in that the statement "Is a pure skin cerate" was false and misleading in that it represented the article to contain wax, when in fact the article contained no wax, and was not therefore a cerate.

On January 13, 1911, the American Druggists Syndicate appeared and filed a general demurrer to the information. On April 11, 1911, the case coming on for hearing on said demurrer, the court after hearing argument of counsel and being fully advised in the premises, rendered the following opinion sustaining said demurrer, and dismissing the information:

VEEDER, J. The defendant has demurred to both counts of a criminal information charging it with misbranding a drug in violation of the act of June 30, 1906, C. 3915, par. 2, 34 Stat. 768, known as the Food and Drugs Act. Section two of the act prohibits "the introduction into any State or Territory or the District of Columbia from any other State or Territory or the District of Columbia of any article of food or drugs which is adulterated or misbranded within the meaning of this act", and provides that any person who shall ship or deliver for shipment, as therein described, any such article so adulterated or misbranded, shall be guilty of a misdemeanor. The offense of misbranding is defined in section 6 as follows:

"That the term 'misbranded', as used herein, shall apply to all drugs, or articles of food, or articles which enter into the composition of food, the packages or label of which shall bear any statement, design, or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, and to any food or drug product which is falsely branded as to the State, Territory, or country in which it is manufactured or produced.

That for the purposes of this act an article shall also be deemed to be misbranded:

In the case of drugs:

First, if it be an imitation of or offered for sale under the name of another article.

Second, if the contents of the package as originally put up shall have been removed, in whole or in part, and other contents shall have been placed in such package, or if the package fail to bear a statement on the label of the quantity or proportion of any alcohol, morphine, opium, cocaine, heroin, alpha or beta eucaine, chloroform, cannabis indica, chloral hydrate, or acetanilide, or any derivative or preparation of any such substances contained therein."

The remainder of the section deals in similar detail with the case of foods.

The first count of the information alleges that the defendant shipped from the State of New York to the District of Columbia a certain article and drug, which was a mixture of substances for external use, upon which there was a label reading: "A. D. S. Peroxide Cream. Cleansing, Soothing and Healing to the Skin, Antiseptic, Cooling and Refreshing." Elsewhere upon the carton, and upon the package or jar enclosed therein, were immaterial variations of this statement of the properties and purposes of the preparation. It is charged that this was a misbranding within the meaning of the act, "in that the label then and there bore statements, designs and devices regarding the said article and the ingredients and the substances contained therein, which were false and misleading, in that the words 'Peroxide Cream' represent that peroxide is an important ingredient, and tend to lead the purchaser to believe that peroxide is an important ingredient of the article, whereas, in truth and in fact, the article then and there contained only an indication of a very small quantity of same peroxide which said quantity is insignificant."

The scope of the general terms of the definition of misbranding in section 8, "any statement, design or device regarding such article, or the ingredients or

substances contained therein which shall be false or misleading in any particular", must be ascertained by construing them in connection with the subject matter and other provisions of the act. It includes, in the first place, not only statements concerning the ingredients or substances contained in the article, but certain other statements "regarding such articles." What such statements are appears, in the case of drugs, in the paragraph immediately following the definition of misbranding; for instance, drugs in imitation of or offered for sale under the name of another article. The only possible ground for doubting this construction arises from the manner in which the general definition of the term misbranding is followed, in the case of drugs, by specifications which purport to be additions. The remainder of section 8, dealing with the case of food, is perfectly clear. The first three paragraphs specify the particulars other than statements regarding the ingredients or substances contained therein which shall be deemed misbranding, and then follows the general provision covering any statement "regarding the ingredients or the substances contained therein which shall be false or misleading in any particular." Having regard to the fact, however, that the general definition of the term misbranded is expressly applicable to both food and drugs, it does not appear that the difference in phraseology and form of arrangement of the specific provisions for the two articles affects their substantial equality in scope. It is clear that the section does not apply to any statement regarding a drug which does not have reference to the ingredients or substances contained therein, or to any of the particulars specified in the section in the case of drugs. The same process of reasoning discloses the scope of the phrase "false or misleading in any particular." If there is any appreciable difference in the import of the words false and misleading, the scope of the latter term is to be found in the specific provisions of this section in the case of drugs; for instance, where the label fails to state, as required, the quantity or proportion of alcohol contained therein. No statement regarding a drug can therefore be false or misleading in any particular, within the meaning of the act, unless it relates to some one or more of the various particulars expressly enjoined or prohibited by the act.

It appears upon the face of the information that the preparation in question contained some peroxide. There was no statement on the label as to the quantity or proportion, nor does the act require any such statement in the case of peroxide. Certainly, then, the label was not false. In *re Wilson*, 168 Fed. Rep. 566; *United States vs. Boeckmann*, 176 Fed. Rep., 382. But the information alleges that the label is "false and misleading, in that the words 'Peroxide Cream' represent that peroxide is an important ingredient, and tend to lead the purchaser to believe that peroxide is an important ingredient of the article, whereas, in truth and in fact, the article then and there contained only an indication of a very small quantity of same peroxide, which said quantity is insignificant." It is asserted (and it is a fair inference) that the label tends to lead purchasers to believe that peroxide is present to such an extent that the antiseptic and healing qualities of peroxide may be obtained from its use; and it is argued that such is not the fact, and therefore the label is misleading. In other words the Government contends that the statement on the label with reference to the remedial effect of the article is a misbranding within the meaning of the act because the article is in fact ineffectual for the purpose indicated. Assuming that the information is sufficient as a pleading to raise such an issue, this contention is based upon an entire misconception of the scope and purpose of the act. The purpose was to protect the public against deception in the purchase of drugs and food by punishing adulteration and misbranding as therein defined. If the label on a drug is not false or misleading in any of the particulars enjoined or prohibited by section 8, no offense is committed under

that section. By no possible construction can the terms of the act be extended to such a boundless field of inquiry as that involved in the accuracy of the remedial effects claimed for a drug. Such an inquiry could be pursued only through the opinions of contending experts and the experience of those who had used the article, and a conclusive determination could seldom, if ever, be reached. At all events, it is sufficient to say that the act discloses no purpose to hold manufacturers and vendors of preparations like the one in issue here to criminal responsibility for misstatements as to their curative or remedial effects. *United States vs. Johnson*, 177 Fed. Rep. 313.

The second count of the information alleges that there was enclosed with the article a circular entitled "A. D. S. Toilet Dainties," containing the following words under the heading "A. D. S. Peroxide Cream": "It is a pure skin cerate, in which a harmless and efficient whitening agent has been successfully incorporated"; and asserts that this was a misbranding "in that the circular accompanying the article bore statements, designs and devices regarding the said article, and the ingredients and substances contained therein, which were false and misleading, in that the statement 'is a pure skin cerate' is false and misleading in that it represents the article to contain, wax, whereas, in truth and in fact, the said article did not then and there contain wax, and was not then and there a cerate". In other words, the information shows that the alleged false and misleading statement constituting misbranding appeared, not upon the label of the article itself, or upon the package in which the article was contained, but upon a separate circular (the title of which indicates that it advertised other articles) which was enclosed with the article in the enveloping package.

The terms brand and label as used in this connection are perfectly clear and definite; they indicate a statement, design or device affixed to an article. Confusion can only arise from the failure to employ uniform phraseology throughout the different paragraphs of section 8 to express the same idea. In the second numbered paragraph relating to food the phraseology is "if the package fail to bear a statement on the label"; in the fourth numbered paragraph relating to food the phraseology is, "if the package containing it or its label shall bear any statement". Doubtless these variations in expression were employed in view of the fact that such articles are commonly sold either in bottles, jars or cans, in which case the statement, design or device would ordinarily appear on a printed label attached thereto, or in an enveloping carton or package, when the statement would ordinarily be printed on the package. But the clearest provision in the section (the third numbered paragraph relating to food) omits the word label altogether: "If in package form, and the contents are stated in terms of weight or measure they are not plainly and correctly stated on the outside of the package". The plain sense of the language in question is that it embraces any statement, design or device regarding the article, which appears on the outside of the package in which the drug is offered for sale, whether such statement be printed upon or otherwise affixed to the package itself or impressed upon a separate label which is then affixed to the package. An advertising circular enclosed with an article inside the carton in which it is offered for sale, does not induce the sale or deceive the intending purchaser, and is not within the purview of the act.

The demurrer is sustained.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., November 4, 1911.

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1195.

(Given pursuant to section 4 of the Food and Drugs act.)

ADULTERATION OF CATSUP.

On March 6, 1910, the United States Attorney for the Eastern District of Louisiana, acting upon a report of the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 100 cases and 31 barrels of catsup consigned to A. J. McEvoy, distributing agent for the Blue Grass Canning Co., Owensboro, Ky. Each of said barrels bore on one end the following label: "Compound—Contains tomatoes and parts of tomatoes, sugar, spice, grain vinegar—Ky. Belle Catsup—contains small cereal—1/10 of 1% sodium benzoate—sweetened with pure sugar—contains no coloring matter—The Blue Grass Canning Co.—Owensboro, Ky." and on the other end the following label: "Kentucky Belle Catsup—contains 1/10 of 1% sodium benzoate—sweetened with pure sugar—contains no coloring matter. The Blue Grass Canning Co., Owensboro, Ky." Each of the 100 cases bore the following label: "2 doz. 12 oz.—Blue Grass Catsup—strictly pure—sweetened with pure sugar—contains no coloring matter—contains 1/10 of 1% benzoate sodium. Blue Grass Canning Co., Owensboro, Ky." On each box there was stenciled: "A Mackie Gro. Co.", and contained in each case of said catsup were two dozen bottles each of which bore on principal label: "Blue Grass Brand Tomato Catsup—Daniel Boone (picture of Boone)—Contains 1/1000 part sodium benzoate—New Blue Grass Canning Co., incorporated—Packers—Owensboro, Ky., U. S. A." (Bottle neck labeled) "Made from pure whole tomatoes, pure sugar, pure grain vinegar, and pure spices, and contains 1/10 of 1% benzoate of sodium."

Examinations by the Bureau of Chemistry of the United States Department of Agriculture of two samples of said product numbered for purposes of identification I. S. 10682-b and 10683-b, respectively, showed the following results:

I. S. 10682-b: Yeasts and spores 72 per 1/60 cmm. Bacteria numerous, estimated at not less than 90,000,000 per cc. Molds

fairly numerous, nearly every field shows them present. In strainings some rather large pieces of mold found. Traces of what appears as decayed tissue.

I. S. 10683-b: Yeasts and spores are 74 per 1/60 cmm. Bacteria fairly numerous, estimated at not less than 50,000,000 per cc. Molds present in about nine-tenths of the various fields.

The libel alleged that the catsup after transportation from the State of Kentucky into the State of Louisiana remained in the original unbroken packages, and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance, and was therefore liable to seizure for confiscation.

On June 6, 1910, the Blue Grass Canning Co. appeared and filed its answer as claimants and owners of said catsup. On February 3, 1911, the case coming on for hearing, the court entered a decree adjudging said product to be adulterated, as alleged in the libel, and condemning and forfeiting same to the United States, but with the proviso that upon payment of all costs of the proceedings and the execution of a good and sufficient bond to be approved by the court, conditioned that said product should not be again sold contrary to law, that the same should be released to the aforesaid claimants.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 7, 1911.*

United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1196.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF CATSUP.

On November 16, 1910, the United States Attorney for the Western District of Pennsylvania, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district two libels, one praying condemnation and forfeiture of 20 barrels of catsup in the possession of A. G. Lehman & Co., and the other praying condemnation and forfeiture of 7 barrels of catsup in the possession of the Pittsburgh Vinegar Co. The product was labeled: "Perfection Tomato Catsup Preserved with 1/10 of 1% Benzoate of Soda Packed by H. N. Weller & Co., Toledo, O."

Samples of said products were examined by the Bureau of Chemistry of the United States Department of Agriculture with the following results: Sample collected from the Pittsburgh Vinegar Co. and numbered I. S. 9942-c was found to contain 65 million bacteria per cc, and 325 yeasts and spores per one-sixtieth cmm.; mold filaments in 75 per cent of the microscopic fields examined. The sample collected from the product in the possession of A. J. Lehman & Co., and numbered for purposes of identification as I. S. 9943-c, was found to contain 65 million bacteria per cc, and 400 yeasts and spores per one-sixtieth cmm.; mold filaments in practically all the fields. The libels alleged that the catsup, after shipment by H. N. Weller & Co., Toledo, Ohio, from the State of Ohio into the State of Pennsylvania, remained in the original unbroken packages, and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, or decomposed vegetable substance, and was therefore liable to seizure for confiscation.

On December 1, 1910, H. N. Weller & Co. appeared in each of the aforesaid proceedings and filed answers and petitions for leave to intervene as parties defendant, and for release of said catsup to them. Whereupon the court entered a decree in each case, finding the products adulterated as alleged in the libels, and condemning and forfeiting the said products to the United States, but with the

proviso that upon the payment of all the costs in the two proceedings, and the giving of a bond by H. N. Weller & Co. in each case in the sum of \$500, conditioned that the aforesaid products should not be again sold contrary to law, that the same should be released to them.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., November 8, 1911.

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1197.

(Given pursuant to section 4 of the Food and Drugs Act.)

MISBRANDING OF WILLIAMS' RUSSIAN COUGH DROPS.

At the February term of the United States District Court for the Middle District of Pennsylvania the United States Attorney for said district, acting upon a report by the Secretary of Agriculture, filed information in the aforesaid court against J. D. Williams & Bro. Co., a corporation, alleging shipment by it, in violation of the Food and Drugs Act, on or about March 23, 1909, from the State of Pennsylvania into the District of Columbia of a quantity of cough drops, which were misbranded. The product was labeled: (On package) "Williams' Russian Cough Drops. Manufactured by J. D. Williams & Bro. Company, 111-117 North Washington Avenue, Scranton, Pa. Russian Cough Drops are taken in preference to all others for coughs, colds, hoarseness and sore throat. Pure and Sure to Cure. One of these drops put in the mouth when going to bed loosens the phlegm and enables the patient to enjoy a comfortable night's rest."

Analysis made by the Bureau of Chemistry of the United States Department of Agriculture of a sample of said product showed it to contain sucrose and invert sugar flavored with oil of anise. Misbranding was alleged for the reason that the statement on the label "Russian Cough Drops" purported the cough drops to be a foreign product, which statement was false and misleading, and for the further reason that the phrase "Sure to cure" appearing on the label was misleading in that the statement was calculated to induce purchasers to believe that the cough drops would cure coughs, colds, hoarseness, and sore throats, when, as a matter of fact, they will not effect the cure of such ailments.

On October 21, 1910, the case coming on for trial by a jury, a verdict of not guilty was rendered by the jury by direction of the court.

W. M. HAYS,
Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 8, 1911.*

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United States Department of Agriculture,

OFFICE OF THE SECRETARY.

NOTICE OF JUDGMENT NO. 1198.

(Given pursuant to section 4 of the Food and Drugs Act.)

ADULTERATION OF CORN MEAL.

On April 2, 1910, the United States Attorney for the Eastern District of North Carolina, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel praying condemnation and forfeiture of 95 sacks of corn meal, in the possession of C. Woodard Co. (Inc.), Wilson, N. C.

Examination of a sample of said meal made by the Bureau of Chemistry of the United States Department of Agriculture showed said meal to be decomposed and in a filthy, sour condition. The libel alleged that the meal, after shipment by B. D. Booth & Co., Petersburg, Va., from the State of Virginia into the State of North Carolina remained in the original unbroken packages and was adulterated in violation of the Food and Drugs Act of June 30, 1906, because it consisted in whole or in part of a filthy, putrid, and decomposed animal or vegetable substance and was, therefore, liable to seizure for confiscation.

On October 4, 1910, said case coming on to be heard and it appearing to the court that the costs had been fully paid by B. D. Booth & Co., and that said company had executed and delivered to the United States a good and sufficient bond conditioned that said meal should not be again sold contrary to law, the court ordered the said meal delivered forthwith to the said B. D. Booth & Co.

W. M. HAYS,

Acting Secretary of Agriculture.

WASHINGTON, D. C., *November 9, 1911.*



